

**Attachment 1: Summary of public comment and DEQ’s responses**

DEQ accepted public comments on the proposed rulemaking from May 25, 2023, until 4 p.m. on July 28, 2023. DEQ received comments from 46 individuals and entities, including two verbal comments provided at the first public hearing, and two at the second hearing. From the 46 comments, DEQ received 260 suggestions and comments on the draft rules. DEQ organized the comments into 27 categories, listed below in Table 1.

DEQ made changes to the proposed rules in response to some comments, and those are included in Table 2. Comments for which DEQ did not make changes are included in Table 3. The full text of written comments received is posted on the [Recycling 2023 rulemaking](#) website.

**Table 1: Comment Category Numbers and Description**

Category Number	Category Description (Rule Name)	OAR (First reference)
<b>Existing Rules</b>		
1	Existing rules	340-090-0030 to 340-090-0380
<b>Recycling Acceptance Lists</b>		
2a	Aseptic cartons	340-090-0630(1)(b)
2b	Bottles and caps	340-090-0630(1)(c) and (d)
2c	Pressurized cylinders	340-090-0630(1)(k)
2d	Tubs, PET thermoforms	340-090-0630(1)(n)
2e	Paperboard boxes	340-090-0630(2)(c)
2f	Spiral wound containers	340-090-0630(2)(f)
2g	Paper and plastic cups	340-090-0630(2)(c)
2h	Polyethylene film	340-090-0630(3)(d)
2i	Mechanism to add materials	340-090-0630(4)(g)
2j	Other	
<b>Standards and Responsible End Markets</b>		
3a	Convenience standards	340-090-0640
3b	Performance standards	340-090-0650
3c	Collection targets	340-090-0660
3d	Responsible end markets	340-090-0670
<b>Producer Responsibility Organization Obligations</b>		
3e	PRO coordination	340-090-0680
3f	PRO fees	340-090-0690
3g	Market share	340-090-0700
3h	Proprietary information	340-090-0710
3i	Program calendar	340-090-0720
3j	PROs with less than 10 percent market share	340-090-0730
3k	Reporting for plastic goal	340-090-0740
<b>Local Government Compensation</b>		
4a	Local government transportation costs reimbursement	340-090-0770
4b	Method for determining payment of transportation costs	340-090-0780(1)(c)
4c	Expansion of service	340-090-0790 and 0800
4d	Local government compensation and invoicing	340-090-0810
<b>Other</b>		

5	Other	
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**Table 2: Summary of comments and DEQ responses for which changes were made to the proposed rules**

Category Number	Rule Topic	Description of Comment	DEQ Response	Commenter #
1	Existing rules	Clarify standard for accessible container placement	DEQ revised the draft rules to include reference to safety conditions.	13
1	Existing rules	Fix typo in proposed OAR 340-090-0030	DEQ revised the draft rule language in response to this comment.	13
1	Existing rules	Do not require additional local government depots to accept appliances, other scrap metal if alternative collection is available.	DEQ revised the draft rules in response to this comment. The draft rules require local governments utilizing the additional depot program element (OAR-340-090-0040(3)(g)) to include scrap metal including appliances at those depots. These existing depots provide a valuable and convenient recycling service to residents and businesses, but not all of them are equipped to or capable of accepting bulky scrap metal, including appliances. The rule as originally proposed might force some of these facilities to close or limit service, reducing public access and convenience. Revised rules will treat appliances and other scrap metal akin to the existing treatment of motor oil for 340-090-0040(3)(g).	12
1	Existing rules	Add cross-reference to alternative program approvals	This comment calls for better cross-referencing between OAR 340-090-0030 (general requirements) and OAR 340-090-0080 (alternative program approval). DEQ will make a change to OAR 340-090-0080 and cross-references therein to OAR 340-090-0030, which will achieve the intent of this comment.	13
1	Existing rules	Explain inconsistent cross-reference	DEQ revised the draft rules in response to this comment to maintain consistency with the	13

Category Number	Rule Topic	Description of Comment	DEQ Response	Commenter #
		involving yard debris	existing rules. Draft rules OAR 340-090-0630(2) and (4)) have been revised to identify yard debris as a "recyclable material" in the Metro wasteshed and require collection of it at depots and from on-route collection customers.	
1	Existing rules	Clarify rigid plastic container calculation rules	DEQ revised the draft rule language in response to comment #3 in this commenter's letter. "Other" is changed to "all other plastic resins" for clarity.	13
1	Existing rules	Clarify title of OAR 340-090-0380	DEQ revised the draft rule language to improve clarity and readability in response to this comment	13
2a	Recycling acceptance lists	Change definition of "aseptic carton"	DEQ revised the draft rule language in response to this comment.	13
2b	Recycling acceptance lists	Change definitions to include "jug"	DEQ revised the draft rule language in response to this comment. Proposed rule OAR 340-090-0630(2)(k)(A) identifies "plastic bottles and jugs", while the definition rule (1) includes a definition of "bottle" but not "jug". "Bottle" is defined as "a rigid container with a neck or mouth smaller than the base." A jug is simply a bottle with a handle. To avoid further confusion, DEQ proposes to modify (2)(k)(A) to delete the reference to "jugs" and to modify the definition of "bottle" in (1)(c) to note that a bottle may have or lack a handle.	13
2b	Recycling acceptance lists	Change size limit for plastic bottles, jugs and tubs accepted in the Uniform Statewide Collection List	DEQ revised the draft rule language in response to this comment. Commenters provide several examples of plastic items that are less than 6 ounces in volume but which are dimensionally larger (longer and/or wider) than some 6-ounce	28, 34, 41, 42

Category Number	Rule Topic	Description of Comment	DEQ Response	Commenter #
			<p>items, and therefore less likely to fall through screens and be lost in commingled recycling processing facilities. Commenters also offer that the standard of 2-inches in at least 2 dimensions is widely accepted as a national design standard, and allows more packages (and more plastic) to be recycled, which aligns with the policy objectives of the Act.</p>	
2c	Recycling acceptance lists	Consider rephrasing exemption for refillable pressurized cylinders	<p>DEQ revised the draft rule in response to this comment because it is possible that reusable pressurized cylinders may be brought to a PRO collection point for recycling, even if they are also subject to an existing exchange system. Some of these may be suitable for continued reuse, while others may be damaged and best managed via recycling. DEQ revised the rule language to include such items in the definition of "pressurized cylinder". To avoid confusion, DEQ has also added to the list of exemptions "liquified petroleum gas containers that are designed to be refilled", as these are already exempted from the definition of a covered product per ORS 459A.863(6)(b)(F), whether they are damaged or intact.</p>	13
2c	Recycling acceptance lists	Support transition to reusable 1 pound propane cylinders.	<p>Draft rules included pressurized cylinders in the PRO Materials Acceptance List (proposed rule OAR 340-090-0630(3)(j)). Meeting convenience standards and associated performance standards (proposed rule OAR 340-090-0650(1) and (3)(b)) for pressurized cylinders should result in some internalization of costs for producers of single-use propane cylinders, and this could improve the economic case for reusables. DEQ revised draft rule</p>	9

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			<p>OAR 340-093-0650(3)(b)(C) to clarify that reusable cylinders which do not have any readily visible physical defects collected at a PRO collection point may be managed through separate pathway (e.g., sent back for reuse).</p>	
2d	Recycling acceptance lists	Include PET thermoforms in recycling acceptance lists	<p>DEQ revised the draft rule language in response to this comment. DEQ recommends that the definition of "tub" is changed to exclude clamshells, as clamshells are typically thermoformed.</p> <p>There are potential environmental benefits to recycling thermoformed PET, and members of the general public, local governments, producers and others have expressed interest in recycling more of this material.</p> <p>The evidence provided during and leading up to this rulemaking process has not demonstrated that end markets, including supply chain activities (reclamation), will meet proposed standards for responsible end markets. The relatively small number of reclamation facilities serving the Western U.S., potential impacts on water availability (reclamation is a water-intensive activity and some facilities may be located in areas that suffer from critical shortfalls in potable water), disposition of contaminants, including potential impacts on water quality potential for incomplete removal of PVC (a "look-alike" resin that is used in similar packaging applications), and lack of transparency and verification.</p> <p>DEQ will consider expanding the</p>	28, 15, 40, 41, 45, 42

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			acceptance of these types of packages if proposed by a producer responsibility organization as part of a program plan or plan amendment in accordance with the procedure contained in ORS 459A.914(4)(b).	
2e	Recycling acceptance lists	Clarify exclusion of internal flexible packaging for paperboard boxes	DEQ revised the draft rules in response to this comment to exclude non-paper flexible packaging inside paperboard boxes.	13
2f	Recycling acceptance lists	Remove paper cans from the Uniform Statewide Collection List, replace with transitional pilot project	DEQ revised the draft rules in a way that addresses this comment.  DEQ does not recommend a trial or research program. The outstanding issue with this material is limited to end market acceptance.	13
2f	Recycling acceptance lists	Consider air emissions from combustion of paper cans	DEQ revised the draft rules in response to this comment. DEQ notes that Cascade Steel Rolling Mills has outstanding concerns regarding impacts of acceptance under Cleaner Air Oregon and that Sonoco (a large manufacturer of this packaging format) has already commissioned an analysis to evaluate these concerns. Sonoco has also reported a screening-level life cycle assessment demonstrating that for 5 of 6 impact factors evaluated, the added (global) environmental benefits of increased steel recycling outweigh higher (local) emissions associated with combustion of the non-steel fraction of the package. Removing the item from recycling acceptance list in this rule provides Cascade Steel Rolling Mills and Sonoco additional time to better evaluate outstanding concerns involving local air emissions.	22

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			<p>DEQ understands that paper cans are appropriate for recycling given consideration of all other criteria contained in ORS 459A.914(3) and if this concern regarding potential air emissions can be addressed. A producer responsibility organization may propose adding this material to the Uniform Statewide Collection List using the program plan mechanism described in ORS 459A.914(4)(b).</p>	
2g	Recycling acceptance lists	Remove paper and plastic cups from the Uniform Statewide Collection List, replace with transitional pilot project	<p>DEQ revised the draft rules in response to this comment. DEQ understands that the public is capable of identifying paper and clear plastic cups made of PET or PP, that commingled recycling processing facilities are able to sort them, and that there are stable, available markets for the paper cups and clear PP cups. DEQ has outstanding concerns regarding reclamation of cups made of thermoformed PET (see related comment and associated rule change to more clearly limit acceptance of thermoformed PET) and notes that these questions and concerns, have not yet been adequately addressed by producers or other parties.</p> <p>There is significant potential for the inclusion of single-use cups to further increase contamination in the commingled stream of materials. The uniform statewide collection list includes materials that may be collected not only from households in Oregon, but also at events and commercial businesses, including food courts and public spaces. Acceptance of one type of food serviceware (cups) and exclusion of others</p>	13

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			<p>(clamshells, plates, boats, etc.) made of the same material may cause public confusion and result in higher contamination including food serviceware items that could be significantly contaminated with food residue.</p> <p>New evidence from the first several months of an inbound contamination assessment currently underway in Oregon (commissioned by DEQ) is revealing that levels of contamination in set-out recyclables have indeed risen since the previous assessment. This is new information that was not available to DEQ when the inclusion of single-use cups in the uniform statewide collection list was first proposed.</p> <p>PROs may at any time propose to add these (and other) food serviceware items into the uniform statewide collection list via a program plan or plan amendment, as provided for in ORS 459A.914(4)(b).</p>	
2h	Recycling acceptance lists	Modify definition of PE film	<p>DEQ revised the draft rule language and the descriptions of "PE film" and packaging made from PE film, to align with the Association of Plastic Recycler's Design Guide. It is important to note that some elements of the revised rule will be difficult to communicate and even more difficult for users of recycling services to understand. DEQ expects that the producer responsibility organization will provide more general guidance to the public as part of outreach, and that some of the more technical elements of the revised rule will be useful in encouraging producers to design film</p>	42



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			packaging to be more readily recyclable, due to the potential for lower fees given to recyclable materials contained in ORS 459A.884(3)(a).	
2i	Recycling acceptance lists	Establish a formal process to request addition of materials to Local Government and PRO Recycling Acceptance Lists.	<p>DEQ revised the draft rules (new OAR 340-090-0630(4)(g)) in response to this comment to require that a PRO's proposal to add materials to the Uniform Statewide Collection List must include supporting information evaluating the material against the criteria contained in ORS 459A.914(3).</p> <p>There are two possible routes for adding a material to the Uniform Statewide Collection List as described per ORS 459A.914: administrative rulemaking, and the PRO plan or plan amendment process, which has its own requirements for public review including consultation with the Oregon Recycling System Advisory Council.</p> <p>Materials may only be added to the Producer Responsibility Organization Recycling Acceptance List through administrative rulemaking. However, a PRO may voluntarily collect other materials at one or more collection points established under ORS 459A.896(1). DEQ may designate materials voluntarily added to such collection points by the PRO as a "Specifically Identified Material" per ORS 459A.917. One of DEQ's reasons for this approach would be to extend responsible disposition requirements as described in ORS 459A.896(2) to the materials. For that reason, DEQ also revised draft rules (new OAR 340-090-0650(1)(i)) to</p>	27, 31, 41

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			<p>require any PRO to provide DEQ with six months advance written notice prior to promoting for acceptance any additional covered products at the collection points provided to satisfy OAR 340-090-0640, and require the PRO to provide DEQ with self-attestations of responsible end market destinations, as described in OAR 340-090-0670(3)(a)(A) prior to promoting acceptance of said materials to the public.</p> <p>The timing of any such proposals, outside of administrative rulemaking, is at the discretion of the PRO and not limited to once per year or any other set schedule.</p> <p>Finally, a commenter asks about the process for moving materials from the PRO Recycling Acceptance List to the Uniform Statewide Collection List. This can be done either by rulemaking or using the onramp mechanism contained in ORS 459A.914(4)(b). In the latter case, the material can be added to the Uniform Statewide Collection List, but doing so does not remove the material from the PRO Recycling Acceptance List; that can only be done by rule. Regardless, DEQ has already proposed an administrative rule that would significantly reduce the PRO's obligations under the PRO Recycling Acceptance List convenience standards; see proposed OAR 340-090-0640(5).</p>	
3a	Convenience Standards	Allow PROs to request a temporary variance in convenience standards	DEQ revised draft rule language OAR- 340-090-0640(7) to indicate that DEQ may approve temporary variance to the convenience standards described in sections (2) and (3) of this rule.	27, 41, 46

Category Number	Rule Topic	Description of Comment	DEQ Response	Commenter #
3a	Convenience Standards	Allow PROs to terminate contracts with "existing depots" for failure to meet performance standards	DEQ has revised proposed OAR 340-090-0640(1) to clarify that the PRO is not required to contract with an existing depot if the depot does not commit to meet and meet performance standards.	28
3a	Convenience Standards	Include criteria for evaluating alternative plans	DEQ revised the draft rules in response to this comment. DEQ agrees that alternate plans for collection proposed by a PRO in a program plan per proposed rule 340-090-0640(6) should be reviewed against fixed criteria during program plan review. New rule language was added at 3409-090-0640(6)(c) to indicate the following criteria for consideration of an alternative program: 1) impact on the achievement of collection targets, 2) impact on equitable access to recycling across regions and diverse populations; and 3) demonstrated support of relevant local government(s) for the proposal.	20
3a	Convenience Standards	Require unified and coherent promotion across depots	Proposed rule OAR 340-090-0650(1)(c) already provides for some unified promotion for collection points collecting PRO materials. Given that some collection points may be operated by entities other than the PRO (e.g., retailers), rules need to provide flexibility for local conditions including co-branding. DEQ is modifying rule OAR 340-090-0650(1)(d) to require collection points co-located with another service (e.g., return-to-retail) to be conveniently located and easy to find, and to require adequate servicing of collection receptacles.	38
3b	Performance Standards	Confirm PRO authority to hold contractors to	DEQ revised the proposed rule to clarify that if a PRO is required to achieve performance standards,	27, 40, 41, 46

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		performance standards	and to contract with existing recycling depots, that the requirement to achieve performance standards should apply to those contractors. A PRO may implement this requirement, including monitoring and reporting, using contract terms. DEQ is revising the conditions under which a PRO must contract with an existing depot to require the depot to "commit to meet and meet" all performance standards. If an existing depot does not commit to meet and meet all performance standards, then the PRO will no longer be required to contract with it. This implies authority to monitor, inspect and collection information relevant to performance targets.	
3b	Performance Standards	Clarify meaning of "material"	DEQ revised the draft rules by replacing "material" with "contamination".	18
3b	Performance Standards	Explain if materials at PRO depots can be disposed of	DEQ revised the draft rule in response to this comment by adding to OAR 340-090-0650(1)(e) new language requiring a PRO, in the event that disposal is required, to report the event and reasons for it to the department, and to report actions the PRO will take to better prevent and manage contamination and prevent a reoccurrence at that location.	13
3c	Collection Targets	COLLTARG: Explain and/or modify collection targets for PE film	DEQ revised the draft rule language in response to comments below from Circular Action Alliance and the Recycling Partnership to allow producer responsibility organizations to propose collection targets for PE film	41
3c	Collection Targets	Modify the collection targets for PE film	DEQ has modified the rule to allow producer responsibility organizations to propose collection targets for this material	28, 42

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			as part of their program plan, similar to most other materials on the PRO Recycling Acceptance List.	
3c	Collection Targets	Describe criteria for proposing material-specific collection targets	DEQ revised this rule to require PRO(s) to describe existing collection quantities and compare proposed targets against existing and recent historic quantities; to describe how the proposed collection target will contribute towards achievement of plastics recycling goals in ORS 459A.926; and to provide a projection on the number of participants and the quantity of material to be collected on a per-participant basis as well as per collection point, and in program plans after the first plan, how changes in population served and number of collection points, if any, were taken into account when proposing new collection targets.	31
3d	Responsible End Markets	Clarify that the "responsible" standard will be applied to chemical recyclers, landfills, and other locations of disposition in Oregon recycling supply chains	DEQ revised the rule language in response to these comments. The "responsible" standard will be applied to all types of recycling supply chains and all the entities that receive waste collected for recycling in Oregon, not just the main or most common locations in material-specific pathways. Facilities that conduct chemical recycling, as well as landfills or incinerators that receive materials diverted from a recycling facility, will be subject to the "responsible" standard. When calculating yields, the materials diverted to a landfill or incinerator will be counted as a loss. Please also note special requirements related to non-mechanical recycling methods, contained in ORS 459A.875(2)(I).	4, 20
3d	Responsible End Markets	Clarify that the end market is the	DEQ revised the draft rule language in response to this	25

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		market that is attributable to plastics	<p>comment. The "end market" definitions in proposed rule OAR-340-090-0670(1) are intended to identify the end market for the primary recycling pathways for each of the materials rather than cast an exhaustive net over all types of recycling pathways and possible destinations and products. They also serve a purpose of marking the boundary beyond which further disposition and reporting and verification is not required.</p> <p>All entities in the supply chain leading to, and inclusive of, the end market, including all locations of disposition and other entities toward which materials are diverted by the end market or other supply chain entities, are verified against the "responsible" standard. The rule language has been updated to indicate this, and to indicate that the end market definitions for plastic apply to non-mechanical and mechanical recycling, with OAR-340-090-0670(1)(d) amended to identify the end market for plastic for most applications as the producer of flake, pellet, <i>or other resin material</i> (with the new language intended to encompass the end market for non-mechanical recycling). For recycled plastics used to produce food and beverage packaging and children's products, the producer of the food and beverage packaging or children's product is the end market, and that is intended for both mechanical and non-mechanical recycling, with an amendment to the rule language clarifying this.</p> <p>An additional end market</p>	

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			<p>definition in proposed rule OAR-340-090-0670(f) was added to allow DEQ to designate further pathways as "end markets" on a case-by-case basis.</p> <p>In accordance with these amended rules, for a chemical recycling process with multiple co-products as outputs, disposition must be reported up to the end market or markets (as defined above) with all entities in the supply chain inclusive of the end market(s) verified against the "responsible" standard. If there are additional entities to which materials are diverted to produce non-plastic co-products, these entities will also be subject to verification against the "responsible" standard.</p>	
3d	Responsible End Markets	Clarify the period of time over which performance against the 60% yield standard would be measured	DEQ revised the draft rule language in response to this comment to indicate that yield may be self-attested by entities that receive waste collected for recycling in Oregon. The PRO will describe its approach to verifying yield in the program plan and may include the period of time for which performance is to be measured against the 60% yield standard. DEQ will review and approve the proposed approach if it fulfills the intent of relevant statute and rule requirements.	31
3d	Responsible End Markets	Clarify whether the minimum yield threshold applies to each individual CRPF or to the end market	DEQ revised the rules in response to this comment to improve the specificity of the draft language for OAR-340-090-0670(2)(c)(A).	18
3d	Responsible End Markets	Ensure inclusion of emerging technologies	DEQ revised the draft rule language to allow for emerging technologies in recycling under	42

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			<p>the "responsible end market" provision, new rule language was added to the "end market" definition at proposed rule OAR-340-090-0670(1)(f) to allow the department to designate an end market on a case-by-case basis if a particular recycling pathway does not include any of the end markets described in OAR-340-090-0670(1)(a)-(e).</p>	
3d	Responsible End Markets	Exclude moisture from calculation of yield	<p>DEQ revised the rule language at OAR-340-090-0670(2)(c)(C) in response to this comment. DEQ agrees that moisture due to weather exposure during collection should not factor into the denominator for yield in fiber supply chains. The numeric figure for yield, to be compared with the proposed 60% threshold, will ultimately be estimated and self-attested by a facility (and visually spot-checked in verification or certification auditing), rather than exactly measured. In such a self-attestation, an end market could explain how moisture was deducted from the total.</p> <p>In the event that DEQ sets limits for acceptable contamination and moisture levels in outbound bales that commingled recycling processing facilities must adhere to as a condition of their permits, deductions from the yield denominator for moisture and contamination will be capped at those limits.</p>	4
3d	Responsible End Markets	Mandate that PROs submit to DEQ protocols for responsible end market verification at locations of material mixing	DEQ revised the draft rule OAR-340-090-0670(2) in response to this comment. The new rule language clarifies this is required program plan content and requires controlled blending as the predominant accounting method to be used, as this approach will	28



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		for review and approval	enable accurate traceability while being practicable to implement.	
3d	Responsible End Markets	Provide more time for receiving self-attestations from and verifying end markets	<p>DEQ revised the draft rules in response to this comment. DEQ agrees to delay the deadline for completion of all verifications to July 1, 2027, and allow 12 months for verification of a market that comes online midstream in a program plan period.</p> <p>The Act was passed in part to address a sense of urgency with respect to environmentally harmful disposal of waste collected for recycling in the United States. The proposed timelines for completing self-attestations and full verifications of end markets reflect a balancing among this urgency with consideration of what is a reasonable amount of time to complete the tasks. These changes also standardize the deadlines for full verification of the PRO-designated and USCL materials.</p> <p>DEQ expects to see interim milestones set for this work in PRO program plans and evidence of continual progress through submission of completed verification reports on a quarterly basis.</p> <p>DEQ will maintain the deadlines that appear in draft rule for completion of the self-attestations. To accommodate special cases that warrant a delay, DEQ has added rule language indicating that variance to deadlines may be approved in a program plan.</p>	28, 40
3d	Responsible End Markets	Remove the unique definition of “end market” for food and beverage and	DEQ revised the draft rule language in response to this comment to allow PROs temporary variance to timelines for market verification and to the	28, 40, 41

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		children's product applications	<p>components included in a verification. Multiple commenters expressed concern that extending the "end market" definition to include the producer of the next product for plastics used in food and beverage contact and children's product applications will place a difficult reporting burden on PROs. DEQ may grant a variance to PROs during the first program plan period regarding food and beverage packaging and children's product producers that would require only verification of the transparency element of the "responsible" standard for these entities.</p> <p>DEQ also revised timelines for PROs to complete verifications of all markets by the end of the first program plan period.</p> <p>Regarding the reporting burden imposed by the "end market" definition specific to plastics used in food and beverage and children's product applications, if plastics reclaimers choose to avoid this added reporting requirement and avoid sending Oregon's materials to those markets, there are other markets where Oregon's post-consumer plastics could be sent.</p>	
3d	Responsible End Markets	Replace the word "handles" with "processes" in the "end market" definition for plastics	DEQ revised the draft rule language in response to this comment by replacing "handles" with "processes" in OAR- 340-090-0670(1)(d).	28
3d	Responsible End Markets	Yields for individual incoming bale components will likely be impossible to determine	DEQ revised the rule language in response to this comment by indicating separate yields for materials mixed together in a bale may be estimated and self-attested to by entities in the recycling supply chain, with provided	28

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			<p>methodological justification.</p> <p>DEQ is not proposing to require lab testing. Self-attestations reviewed in the market verification process, and in some cases visually checked during a verifier site visit to a facility, will fulfill the requirement. During such a site visit, the verifier may determine through interviews and review of technical documents associated with the facility's equipment whether yield thresholds for material being accepted by the facility are being met. A verifier may also demand to see the residuals stream generated from the facility's process to determine whether material accepted by the end-market is being properly processed. If an inspection reveals materials are being screened out and sent to the landfill the verifier will document and note the issue for determination with whether the end-market is in compliance with the "responsible" criteria.</p>	
3e	Producer Responsibility Organization (PRO) Coordination	Clarify that the costs of implementing assigned interim coordination tasks will be divided among PROs in proportion with modified market share	<p>DEQ revised the draft rules in response to this comment. DEQ envisions that program costs associated with implementation of assigned coordination tasks will be divided among the PROs in proportion to modified market share. Per proposed rule 340-090-0680(2)(c)(D), processes to allocate costs among PROs that are proportional to modified market share are a required component of coordination plans, and this applies to both interim and long-term coordination plans.</p> <p>DEQ has added clarifying language to the modified market share rule language at 340-090-0700(2) indicating that costs of</p>	28

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			implementing assigned coordination tasks incurred before the program start date will be divided among the PROs in proportion with modified market share.	
3e	PRO Coordination	Delete requirement that there be one point of contact for DEQ and the Recycling Council	DEQ revised the draft rules in response to this comment to indicate that the coordination plan will ensure a single point of contact for the coordination body and for each PRO, respectively, for communicating with the Recycling Council and DEQ i, when appropriate.	28
3e	PRO Coordination	Sharpen criteria for assigning interim tasks	DEQ revised the draft rules in response to this comment to clarify the criteria.	4
3e	PRO Coordination	Tighten wording regarding when DEQ would suspend, amend, or revoke a coordination plan	In response to this comment, DEQ revised the draft rule language to be more specific. The revised rule language specifies that DEQ can issue an order if the coordination plan prevents a PRO from implementing its program plan in compliance with the law.	28
3f	PRO Fees	Require DEQ to provide accounting data to support the annual administration fee invoice	DEQ revised the draft rules in response to this comment. DEQ will report its current and projected program expenditures and revenue for each fiscal year. The rule language has been updated to reflect this.	27, 41, 46
3f	PRO Fees	Stipulate that implementation of fee incentives related to individual producer LCA evaluations would not require a plan amendment	DEQ revised proposed rule OAR-340-090-0750(2) to reflect that plan amendments are not needed for review of individual bonuses or penalties attributed to producers through the application of the graduated fee structure. DEQ will however consider changes to the graduated fee criteria and to the magnitude of bonuses and penalties awarded for performance against the criteria to be sufficiently substantive to	28

Category Number	Rule Topic	Description of Comment	DEQ Response	Commenter #
			warrant program plan amendments.	
3f	PRO Fees	Tighten language regarding a plan amendment not being necessary for routine updating of fees	DEQ has revised draft rule OAR-340-090-0750(1) to clarify that routine updates of a PRO's fee schedule, either on the basis of the most recent supply data received from member producers or on the basis of updated material cost allocation information from related studies, does not require a plan amendment to implement.	28
3f	PRO Fees	Tighten language regarding when a plan amendment is necessary for substantial updates to producer fee methodology	DEQ revised the draft rule language at OAR-340-090-0750(1)-(2) to clarify that adopting an alternate approach to determining membership fees activates the need for a plan amendment, while adjustments to fee inputs does not.	28
3g	Market Share	Clarify that when a distributor sells a producer's goods into the state and the producer lacks visibility into the distributor's point-of-sale data, the distributor is the obligated producer	<p>DEQ revised proposed rule OAR-340-090-0700(2)(a)(C) after considering this suggested change. Note that the phrase "sold or distributed in or into Oregon" already appears several times in the market share rules describing how market share and modified market share will be calculated. DEQ added with the words "or distributed" to this section to better align with other such references in the proposed rule.</p> <p>The proposed rules for market share did not include any rules refining ORS 459A.866, which lays out how producers of covered products are to be determined. Therefore, this comment is mostly outside the scope of this rulemaking.</p> <p>Proposed rule OAR-340-090-0700(1) allows producers to use estimates when reporting their market share data, and this could</p>	41

Category Number	Rule Topic	Description of Comment	DEQ Response	Commenter #
			encompass a producer estimating the amount of product sold into Oregon via a distributor. ORS 459A.869(3) also allows associated producers (e.g., the producer and the distributor) to decide amongst themselves, who will bear the obligation to join a PRO, report data and pay fees in Oregon.	
3g	Market Share	Fix incorrect rule citations	DEQ revised the draft rule language and corrected proposed rule OAR-340-090-0700(2)(c) to reference the correct section of the rules.	41
3g	Market Share	The rule language regarding the material-specific unit factor suggests that it will not be updated until a long-term coordination plan is in effect	DEQ revised the draft rule language of proposed rule OAR-340-090-0700(2)(c) to indicate that the contractor will update the index as necessary.	28
3g	Market Share	Clarify that the production of small producers and exempt product is not included in the denominator for market share and modified market share	DEQ revised the rule language in response to this comment. The commenter correctly notes that the intention of the market share and modified market share formulas is to only use reported data for obligated producers and products in the denominator, with the sum of market shares across all producers equal to 1.0000. Small producer production is not to be included in the denominator.	20
3g	Market Share	Differentiate preliminary and final market share by name	DEQ revised the draft rule language in response to this comment and added a sub-section to OAR-340-090-0700(4) to indicate that market share data for the prior calendar year and submitted in annual reports due on July 1 is "preliminary," while corrected data submitted by the following June 30 is "final."	28

Category Number	Rule Topic	Description of Comment	DEQ Response	Commenter #
3h	Proprietary information	Require DEQ to share inform a disclosing party of a request for proprietary or confidential information	<p>DEQ revised rule language to address this comment. If DEQ decides to disclose proprietary information to a producer responsibility organization (per OAR-340-090-0710(5)), DEQ will notify the disclosing party seven days prior to releasing the information.</p> <p>As the predominant focus of this rule is proprietary information, this new rule language applies only to proprietary information, not all confidential information.</p>	13, 16
3h	Proprietary information	The end market data should not appear in the list of information not considered proprietary	<p>DEQ revised the draft rules in response to this comment. Statute (ORS 459A.955(2)(h)(B)) indicates that the disposition data reported to DEQ by commingled recycling processing facilities is proprietary unless aggregated or summarized to not reveal the proprietary information of any specific processor. When aggregated or summarized the information is no longer considered proprietary. The draft rule language includes disposition data in the list at OAR- 340-090-0710(4)(d) to clarify the level of aggregation at which point the data are not considered proprietary.</p> <p>The rule language was revised to clarify that the information is not considered proprietary "at the indicated level of aggregation." DEQ revised the rule language to indicate that tonnages "aggregated by country of destination" will not be considered proprietary, i.e., amounts received by individual markets may be considered proprietary.</p> <p>The inclusion of this data in the non-proprietary information list at proposed rule OAR- 340-090-</p>	16, 30, 13

Category Number	Rule Topic	Description of Comment	DEQ Response	Commenter #
			0710(4)(d) to align with what is set out in statute at ORS 459A.955(2)(h)(B): the information is not proprietary because the identity of the source processor(s) is not revealed. The fact that the information will not be considered proprietary does not stop an entity providing this information from claiming that it is otherwise confidential per proposed rule OAR-340-090-0710(2). Should DEQ wish to publish or a public records request be made for the information, that claim would be subject to the balancing test of ORS 192.345, i.e., public interest in disclosure would be balanced against the competing interest in confidentiality.	
3i	Program Calendar	Require a new prospective PRO in its program plans to demonstrate that it has secured representation agreements with producers that collectively represent 10% market share	DEQ revised the draft rule language to clarify that new prospective PROs should include evidence in their program plans that they are capable of attaining at least 10% of the state's market share as required by ORS 459A.869(12). DEQ has added new rule language to OAR-340-090-0720(4) that provides flexibility as to the type of documentation that can be used to demonstrate sufficient market share, such as producer letters of intent.	28
3j	PROs with Less than 10 Percent Market Share	DEQ should provide other PROs with copies of orders and decisions regarding PROs with less than 10 percent market share	DEQ revised the rule language in OAR-340-090-0730(5) in response to this comment to allow for sharing copies of orders and decisions described in proposed rule OAR-340-090-0730 with other PROs about the possible dissolution of a PRO due to insufficient market share. DEQ anticipates this will help in the event a program plan is revoked by order and the PRO is dissolved.	28



Category Number	Rule Topic	Description of Comment	DEQ Response	Commenter #
3k	Reporting for Plastic Goal	Align product categories with the USCL AND the PRO Recycling Acceptance List	DEQ revised the draft rule language in response to this comment to align PRO product categories with both the uniform statewide collection list (as proposed in rule OAR-340-090-0740) and the PRO Recycling Acceptance List. This will also help DEQ monitor progress toward the statewide plastics recycling goal.	4
4a	Local Government Transportation Costs Reimbursement	Distance to Nearest Eligible Facility	DEQ has revised the draft rule language by include "the nearest" into OAR 340-090-0770(3)(c) and "nearest" into OAR 340-090-0770(3)(d).	28
4a	Local Government Transportation Costs Reimbursement	Eligible costs under Transportation Costs Reimbursement	DEQ revised the rule language in response to this comment and has added language to OAR- 340-0900770(4) 0770(4) that states "Costs incurred before the receiving of covered products at a recycling depot or reload facility are not eligible for compensation unless noted elsewhere."	28
4b	Method for Determining Payment of Transportation Costs	Transfer of Transportation Obligations to a PRO	DEQ agrees and revised the draft rule language in OAR 340-090-0780(1)(c) to allow local governments or service providers and a producer responsibility organization to agree to transfer some or all transportation responsibilities to the PRO or coordinating body.	28
4c	Expansion of Service	Delete extra bullet symbol in OAR 340-090-0800(4)	DEQ revised the draft rule language in response to this comment.	13
4c	Local Government Compensation	Expansion of Service Funding Eligible Capital Costs	DEQ revised the draft rule language in response to this comment. DEQ will update the language associated with OAR 340-090-0800(1)(c)(B)(i) to resemble the precedent set under ORS 459A.890(5)(d)(A) with respect	28

Category Number	Rule Topic	Description of Comment	DEQ Response	Commenter #
			<p>to recycling reload facilities, including in (1)(c)(B)(i) the addition of “if necessary to establish such a location,” so that (1)(c)(B)(i) reads “If necessary to establish such a location, acquiring, renting or leasing of Land.”</p> <p>In this case, the depreciation of land is irrelevant. The PRO would not be asked to purchase land on behalf of a local government or local government service provider. Instead, if land acquisition for a depot was found to be necessary, that cost would be determined via the expansion of service conversations the PRO would have with the local government and local government service provider(s) and funding would be provided in advance, or via reimbursement, for such a cost. DEQ will update the language to also include rental or leasing of land.</p>	
4c	Local Government Compensation	PRO Program Plan and Needs Assessment Estimates	<p>DEQ revised the draft rule language in response to this comment to state that if during a program plan period a PRO’s updated estimate for the total amount of funding to be disbursed to local governments during a program plan period differs from its original estimate by more than 20%, the PRO must submit a program plan amendment for DEQ’s review and approval.</p> <p>The submittal of its initial program plan (by March 31, 2024), the PRO(s) may not know the estimated costs associated with each local government that is requesting an expansion or establishment of recycling service in association with ORS</p>	28

Category Number	Rule Topic	Description of Comment	DEQ Response	Commenter #
			459A.890(5) and (8). DEQ will allow the PRO to submit an estimated total amount associated with all local governments that requested an expansion or establishment of recycling service with its initial program plan. DEQ anticipates ongoing conversations between the PRO, local governments and local government service providers so the PRO must provide more detailed, itemized estimates of the costs associated with each local government requesting an expansion or establishment of recycling service in following program plans.	
4c	Local Government Compensation	Remove of "and" in OAR 340-090-0800(1)(c)	DEQ revised the draft rule language in response to this comment.	13
4d	Local Government Compensation and Invoicing	Additional language added to OAR 340-090-0810	DEQ revised the draft rule language in response to this comment	13

**Table 3: Summary of comments and DEQ responses for which no changes were made to the proposed rules**

Category Number	Rule Topic	Description of Comment	DEQ Response	Commenter #
0	General support	General support	Thank you for your comments.	18, 17, 29, 37, 7, 20, 38, 2, 1, 3, 11, 5, 6
1	Existing Rules	Add specific statutory citation for tenants as collection service customers	DEQ did not make changes in response to this comment because it is inconsistent with how other rules similarly duplicate statute; cross-references to the statutory source are not typically included in the rule language itself.	13
1	Existing Rules	Clarify planning requirement for new construction or significant remodels	DEQ did not make changes in response to this comment because the rule language as proposed is a literal repeat of statute: ORS 459A.911(2) requires local governments to demonstrate that they have a plan	13

Category Number	Rule Topic	Description of Comment	DEQ Response	Commenter #
			(singular) to ensure adequate space and access for collection vehicles. Statute provides local governments with significant latitude with regard to the content of their plan. DEQ lacks statutory authority to make the requested change.	
1	Existing Rules	Modify statutory requirements	DEQ is not proposing changes in response to this comment. A facility that accepts mixed plastics from a commingled recycling processing facility and converts them to materials using mycelium mitigation technology would likely not be classified as a CRPF. The requirements of OAR 340-090-0030 are not applicable. The proposal to modify ORS 459A.905(2) is outside the authority of the Commission.	23
1	Existing Rules	Oppose definition of "toxic substances"	DEQ is not proposing changes in response to this comment. The draft rules do not include a definition of "toxic substances". There is a pre-existing definition of "toxic materials" which relate to an existing rule not the subject of the Recycling Modernization Act. This proposed rulemaking does not expand DEQ's authority or allow materials to be banned from the recycling system or packaging.	35
1	Existing Rules	Provide safeguards so that low value recyclables are not discarded	DEQ is not proposing changes in response to this comment. The "economic test" in what was OAR 340-090-0010(35) previously allowed a material to be declassified from being a "recyclable material" if recycling the material became more expensive than disposal. The Recycling Modernization Act and the revised rule -0010(36) removes the economic test for any material identified under ORS 459A.914, including this rulemaking. Disposal of such materials, once source separated, is prohibited under ORS 459A.080(3).	18, 23
1	Existing Rules	Support proposed change	Thank you for your comment.	13

Category Number	Rule Topic	Description of Comment	DEQ Response	Commenter #
		to definition of "source separate"		
1	Existing Rules	Create greater flexibility in alternative program approvals	DEQ is not proposing changes in response to this comment. OAR 340-090-0080 defines a process by which a local government regulated under the Opportunity to Recycle Act may request approval for an "alternative program". This existing process applies to local governments and are specific to their compliance obligations under existing statute. DEQ does not see how they create a barrier to private businesses that seek to provide new end markets for collected materials.	23
1	Existing Rules	Explain edits involving yard debris in OAR 340-090-0040(3)(b) and elsewhere	DEQ is not proposing changes in response to this comment. Existing rule OAR 340-090-0040(3)(b) describes a program element involving the provision of on-route collection of "source separated recyclable materials, excluding yard debris, to residential collection service customers . . ." The proposed change replaces "source separated recyclable materials" with "source separated recyclable materials designated by OAR 340-090-0630(4)(b)". Because that designation does not include yard debris, it makes no sense to then "exclude yard debris" so the exclusion is deleted. This and other changes involving yard debris (such as the revision to OAR 340-090-0190(5)) are housekeeping; many are a result of the elimination of OAR 340-090-0070 ("Principal Recyclable Material").	13
2	Alternative Programs/ Recycling Acceptance Lists	Clarify collection obligations for local governments	DEQ is not proposing changes in response to this comment. The requested cross-reference to alternative programs is not necessary, in part because existing rule (OAR 340-090-0080) already provides a pathway by which a city, county, metropolitan service district or disposal permittee can obtain approval for an alternative program that is as	13

Category Number	Rule Topic	Description of Comment	DEQ Response	Commenter #
			convenient and effective as the standard programs required in rule. The requested cross-reference to ORS 459A.863(25)(d) is potentially confusing, since (d) relates to recycling drop-off points or depots, while this rule (340-090-0630(4)(b) relates to on-route collection.	
2	Recycling Acceptance Lists	Classify plastic as a biohazard	DEQ is not proposing changes in response to this comment. The Commission does not have statutory authority to classify plastic as a biohazard.	10
2	Recycling Acceptance Lists	DEQ should expedite finalization of the recycling acceptance list or provide additional time for PROs to submit final plans	DEQ is not proposing changes in response to this comment.  DEQ acknowledges that the timeline for implementation of the Recycling Modernization Act is ambitious, but also believes that DEQ's PRO Program Plan <a href="#">guidance</a> provides prospective PROs sufficient direction to achieve approved program plans before the program start date. Corrections needed between anticipated Commission approval of these rules and the deadline for program plan submission can be addressed in a second program plan draft submission.	30
2	Recycling Acceptance Lists	Fund research into new and improved methods of plastics recycling, especially with regards to chemical recycling.	DEQ did not make changes in response to this comment because the proposed rules for responsible end markets as well as requirements specific to non-mechanical recycling contained in ORS 459A.875(2)(a)(I) will require disclosure and in some cases, assessment, of environmental impacts. ORS 459A.896(2) also requires PROs to manage certain covered products according to the hierarchy of materials management options under ORS 459A.015(2). All of these requirements will allow for a system of continual improvement, that is, reduction of impacts, as impacts are increasingly evaluated and disclosed.	10

Category Number	Rule Topic	Description of Comment	DEQ Response	Commenter #
			In some cases, the PRO(s) may fund research to find improved solutions.	
2a	Aseptic cartons	Include polycoated and aseptic cartons in the Uniform Statewide Collection List	Thank you for your comment.	17
2a	Aseptic cartons	Remove polycoated and aseptic cartons from the Uniform Statewide Collection List, replace with transitional pilot project	<p>DEQ did not propose changes in response to this comment because polycoated and aseptic cartons are already accepted for recycling in commingled programs in the Portland area. DEQ understands that customers can identify them, and commingled recycling processing facilities are able to sort them. DEQ expects that CRPFs with advanced sortation equipment may separate the cartons into a separate bale, while facilities that lack such advanced technology could pass them on to such more advanced facilities (or another secondary processor) as part of a load of mixed containers. DEQ received evidence demonstrating stable (and expanding), available markets both for bales of separated material (Grade 52 bales) as well as mixed paper bales containing polycoated and aseptic cartons. While there were multiple opportunities to provide additional information to support the request in this comment, DEQ did not receive any new evidence sufficient to warrant revising the draft rules.</p> <p>DEQ's analysis of environmental impacts demonstrates the potential for environmental benefits even if these materials require transport to a distant end market (e.g., Mexico or Wisconsin). DEQ's commissioned assessment of economic impacts demonstrate that the marginal cost impacts of adding this material to the uniform statewide collection list are modest - and that the economic benefit to society resulting from reduced</p>	13

Category Number	Rule Topic	Description of Comment	DEQ Response	Commenter #
			<p>pollution (due to the displacement of paper fiber from virgin sources) is several times larger. There is strong support for including this material from the producers of this packaging format. Further, the Recycling Modernization Act contains multiple elements that minimize risk to users and operators of the commingled recycling system, including enhanced public communication (ORS 459A.893), permitting requirements on commingled processing facilities, including capture rates and contamination limits (ORS 459A.955), compensation to CRPFs for their costs incurred in sortation and marketing (ORS 459A.923) and responsible end market disposition requirements on both processing facilities (ORS 459A.955) and producer responsibility organizations (ORS 459A.896(2)). DEQ has sufficient information supporting the benefits of acceptance - including environmental benefits - outweigh the hypothesized concerns.</p>	
2b	Bottles and caps	Change definition of "cap"	<p>DEQ is not proposing changes in response to this comment.</p> <p>As discussed previously, DEQ revised the draft rules to remove reference to "jugs". While many tubs are closed using lids, some caps are used to close tubs and so it is appropriate to maintain the reference to tubs in the definition of caps.</p>	13
2b	Bottles and caps	Explain why caps and lids are generally excluded from the Uniform Statewide Collection List	<p>DEQ is not proposing changes in response to this comment.</p> <p>Most commingled recycling processing facilities pass mixed materials through a pre-sort area and then a series of screens that generally separate materials based on shape. Caps and lids are generally flat, and items that are flatter (or more two dimensional), such as paper, primarily flow to a paper sorting line Items that</p>	41



Category Number	Rule Topic	Description of Comment	DEQ Response	Commenter #
			<p>are more "three dimensional" flow to a line that is designed primarily to separate metals and plastics. Given their generally flat profile, DEQ expects that most loose caps and lids may flow to the paper sortation line, thereby increasing sortation costs, potentially contaminating outbound paper bales, and reducing yield (capture) of these materials.</p> <p>DEQ realizes that caps and lids might flow instead to the container sortation line, or that the paper line can be operated in a way to successfully remove such materials and redirect them to the container line for further sortation and marketing, but DEQ has received limited evidence that this can be done effectively. A PRO may propose these materials for inclusion in the Uniform Statewide Collection List, using the mechanism contained in ORS 459A.914(4). Such a proposal should be accompanied by analysis using the criteria contained in ORS 459A.914(3) and evidence that these materials can be recovered effectively, with high capture rates inside the CRPF, and without negatively impacting outbound paper quality, in Oregon facilities.</p>	
2c	Pressurized Cylinders	Remove pressurized cylinders from the PRO Recycling Acceptance List.	<p>DEQ did not propose changes in response to this comment because by including them in the PRO Recycling Acceptance List, Oregon can provide a system that diverts the material from disposal, safely and properly manages any residual content, and recycles the steel package.</p> <p>Pressurized cylinders (such as 1-pound propane cylinders for camping stoves) are ubiquitous and may contain gases that are flammable, explosive, and/or toxic. Management of the packaging (the pressurized cylinder itself) creates significant burdens on local governments and operators of the</p>	28

Category Number	Rule Topic	Description of Comment	DEQ Response	Commenter #
			<p>waste system. The package itself is typically steel and recycling the steel provides significant environmental benefits. These items are not typically recycled due to uncertainty and risk on the part of the recycling system due to the potential that cylinders might not be empty.</p> <p>The commenter proposes to address this item under "separate requirements" but it is unclear what pathway that might involve. Producers may wish to propose separate extended producer responsibility legislation to address this item and remove it from the jurisdiction of the Recycling Modernization Act. However, until such legislation is proposed and then adopted into law, pressurized cylinders remain a covered product under the Recycling Modernization Act and inclusion of them in the PRO Recycling Acceptance List will improve environmental outcomes.</p>	
2f	Spiral Wound Containers	Include paper cans on the Uniform Statewide Collection List	<p>DEQ is not proposing changes in response to this comment. Rather, DEQ revised rules in response to other comments and is removing paper cans from the Uniform Statewide Collection List to provide Radius (Cascade Steel Rolling Mills) and Sonoco additional time to better evaluate potential air quality impacts. Most paper cans set out for recycling in Oregon, if included in the USCL, will likely end up at a steel mill, and the non-steel fraction will be burned off.</p> <p>If a producer responsibility organization subsequently propose inclusion of composite cans via the "onramp" mechanism contained in ORS 459A.914(4)(b), including in its proposal the level of detail regarding assurances of responsible end markets, as provided by Sonoco in its</p>	17, 26

Category Number	Rule Topic	Description of Comment	DEQ Response	Commenter #
			comments on the draft rules, would further improve DEQ's confidence that a viable and sustainable outcome will be realized.	
2f	Spiral Wound Containers	Revise terminology involving "spiral wound containers"	DEQ revised the draft rules based on other comments received. DEQ did not make changes in response to this comment.	28
2g	Paper and Plastic Cups	Include polycoated paper cups on the Uniform Statewide Collection List	DEQ is not proposing changes in response to this comment. DEQ does not dispute the existence of end markets for this material. However, revised rules will not include polycoated paper cups in the uniform statewide collection list for unrelated reasons - please see DEQ's response to related comments provided by ORRA.	17
2h	Polyethylene Film	Include PE film in PRO Recycling Acceptance List	Thank you for your comment.	21
2i	Mechanism to Add Materials	Provide a process for removal of covered products from the Uniform Statewide Collection List	<p>DEQ did not propose changes in response to this comment. The process for removing covered product from the Uniform Statewide Collection List is prescribed in statute and depends on the mechanism for its inclusion. If placed there by administrative rule (ORS 459A.914(4)(a)), it can only be removed by administrative rule. If placed there by a PRO program plan or plan amendment (ORS 459A.914(4)(b)) it may be removed by a subsequent plan or plan amendment.</p> <p>Materials can only be added to or removed from the PRO Recycling Acceptance List by rule. Removal of an item from the USCL does not automatically initiate its addition to the PRO Recycling Acceptance List (and vice versa). Please see related comment regarding processes for adding materials to either list, including the potential for a PRO to voluntarily collect at collection points</p>	13

Category Number	Rule Topic	Description of Comment	DEQ Response	Commenter #
			materials not included in the PRO Recycling Acceptance List.	
2j	Other: Glass	Include glass in PRO Recycling Acceptance List	<p>DEQ did not make any changes in response to this comment. The proposed rules would only require local governments in the Portland Metro area to collect glass from on-route commercial customers (non-residential). The rules would allow any local governments to collect glass curbside from residents if they choose to do so. There may be limited financial assistance from the producer responsibility organization to support this option. This new assistance includes paying for transport of materials if an end market is more than 50 miles distant (ORS 459A.890(2)), ensuring responsible disposition (ORS 459A.896(2)), supporting new/expanded collection (ORS 459A.890(5)), and in some cases, providing financial support for on-route collection (a possible outcome of 340-090-0640(6)).</p> <p>Expenses associated with on-route collection of glass are not eligible for PRO compensation, aside from what is noted above. The Recycling Modernization Act, as a "shared responsibility" model, limits the PRO's financial obligations associated with on-route collection of recyclables on the Local Government Recycling Acceptance List. In most cases, most of the costs associated with the collection phase of on-route collection will continue to be paid by ratepayers.</p> <p>DEQ is not proposing glass for inclusion on the USCL because it would allow glass to be collected commingled with other materials. Commingled collection of glass generally results in increased yield loss and higher costs in processing. Glass breaks easily and if collected commingled it has to be separated</p>	21, 35

Category Number	Rule Topic	Description of Comment	DEQ Response	Commenter #
			<p>from other materials inside the processing facility. Commingled recycling processing facilities in Oregon (and some of their downstream paper markets) have expressed strong opposition to including glass in the commingled system. Second, many local governments regulated by the Opportunity to Recycle Act have previously chosen to not collect glass on-route. Adding glass to the USCL would force them to either add glass to their commingled mix, or provide a new, separate on-route collection service, the operational costs of which would largely not be reimbursable by the PRO.</p> <p>Finally, a screening-level assessment of environmental impacts conducted by DEQ found that the environmental benefits of collecting glass on-route from households is relatively modest, and that in some cases, the impacts of collection may outweigh the benefits of recycling.</p> <p>For these reasons, to the extent rule will allow local governments choose, based on their local needs and interests, whether to collect glass on-route. If they choose not to, depot/drop-off collection points will be provided by the PRO as part of its obligations to collect materials on the PRO Recycling Acceptance List.</p>	
2j	Other: Glass	Continue researching options to improve on-route collection of glass	Thank you for your comment.	20, 44
2j	Other: Glass	Support local flexibility with respect to curbside glass	DEQ is not proposing changes in response to this comment. Local governments already have flexibility	29, 38

Category Number	Rule Topic	Description of Comment	DEQ Response	Commenter #
		collection service	in determining whether they wish to offer or maintain this service.	
2j	Other: Glass	Include glass in Uniform Statewide Collection List	Thank you for your comment.	24
2j	Other: Food Serviceware	Explain why molded-fiber serviceware items are excluded from the Uniform Statewide Collection List	DEQ is not proposing changes in response to this comment.  A producer responsibility organization may propose such an expansion as part of the "onramp" mechanism contained in ORS 459A.914(4), which includes additional opportunity for external review and consideration.	41
2j	Other: Film Plastic	Explore adding film plastic to the Uniform Statewide Collection List.	DEQ is not proposing changes in response to this comment.  Film plastic has historically contaminated Oregon commingled recycling processing facilities.	42
2j	Other Plastic Packaging	Include additional plastic packaging formats in the Uniform Statewide Collection List	DEQ did not make changes in response to this comment. Adding "Plastic containers" or "plastic packages" would invite a large variety of resins and formats that are more difficult to process and/or market than just bottles.  A producer responsibility organization may propose such an expansion as part of the "onramp" mechanism contained in ORS 459A.914(4), which includes additional opportunity for external review and consideration.	34
2j	Other: Aluminum Foil	Include aluminum foil and pressed foil products on the Uniform Statewide Collection List	DEQ is not proposing changes in response to this comment.  Commenters note a DEQ analysis that commingled recycling processing facilities could improve their recovery of aluminum foil. That analysis also revealed relatively high costs and is based on technology assumptions. Comments provided no information demonstrating how CRPFs in Oregon could better separate cans from foil to	19, 32, 33

Category Number	Rule Topic	Description of Comment	DEQ Response	Commenter #
			ensure better yield of materials for recycling.	
2j	Other: HDPE Cups	Include HDPE cups in the Uniform Statewide Collection List	DEQ is not proposing changes in response to this comment because the draft rules do not include any single-use cups in the uniform statewide collection list. As such, it is not appropriate to add HDPE cups. Producer responsibility organizations may propose them for inclusion in a program plan or plan amendment, using the program plan "onramp" mechanism contained in ORS 459A.914(4)(b).	28
2j	Other: HDPE Package Handles	Include HDPE package handles on the Uniform Statewide Collection List	<p>DEQ is not proposing to revise rules in response to this comment; commenter has not provided sufficient information to address outstanding questions involving ability of commingled processing facilities to effectively sort and separate this material.</p> <p>A PRO may propose to add this material to the uniform statewide collection list using the mechanism contained in ORS 459A.914(4). Such a proposal should be accompanied by analysis using the criteria contained in ORS 459A.914(3) including evidence that these materials can be recovered effectively, with high capture rates inside the CRPFs, and without negatively impacting outbound paper quality, in the types of CRPFs that serve Oregon.</p> <p>Following this process has the added benefit of allowing other parties to consider and provide feedback on this proposal, including members of the Oregon Recycling System Advisory Council, and the local governments, collection companies, and CRPFs that would ultimately be obligated to collect and recycle the material.</p>	14, 28, 42, 43

Category Number	Rule Topic	Description of Comment	DEQ Response	Commenter #
2j	Other: LDPE Bottles, Jugs and Tubs	Include LDPE bottles, jugs and tubs in the Uniform Statewide Collection List.	<p>DEQ is not proposing changes in response to this comment because DEQ prefers to first confirm the PROs' approach to educating the public about the uniform statewide collection list.</p> <p>The producer responsibility organization is responsible to propose and design public outreach materials to promote and explain the uniform statewide collection list (see ORS 459A.893). A PRO might propose to explain to the public which plastics to recycle through one of two approaches: 1. "sort by number" (and format), or 2. "all bottles and tubs" (with a strong disclaimer that not all bottles and tubs will actually be recycled).</p> <p>DEQ is prepared to consider acceptance of LDPE bottles and tubs in the uniform statewide collection list if such acceptance is proposed in a program plan according to the onramp mechanism contained in ORS 459A.914(4)(b). As part of that proposal, DEQ would need additional information about the PRO's proposed outreach framework and the compatibility of LDPE bottles and tubs with that framework. By not including LDPE bottles and tubs in the Uniform Statewide Collection List as part of this rulemaking, DEQ maintains greater flexibility for the PRO in the design of public outreach messages.</p>	28, 42
2j	Other: Polycoated Paperboard	Include polycoated paperboard packaging in the Uniform Statewide Collection List	DEQ is not proposing changes in response to this comment because of uncertainty about impacts on marketability of mixed paper (responsible end markets), including the fate of the plastic fraction of such packaging when placed into paper mills for recycling, both domestic and elsewhere.	27, 28, 34, 42



Category Number	Rule Topic	Description of Comment	DEQ Response	Commenter #
			<p>A producer responsibility organization may propose including this material as part of the "onramp" mechanism contained in ORS 459A.914(4) and the criteria for the mechanism, as contained in ORS 459A.914(3).</p> <p>Following the onramp process would also provide opportunities for other parties (local governments, collection service providers, commingled recycling processing facilities, Oregon Recycling System Advisory Council, etc.), to consider and provide feedback about the proposal, in accordance with the public review and consultation process required by ORS 459A.878(2).</p>	
2j	Other: Refrigerated and Frozen Food Paperboard	Include refrigerated and frozen food paperboard containers in the Uniform Statewide Collection List	DEQ is not proposing changes in response to this comment. DEQ requires more information about available markets for these materials.	27, 42
2j	Other: Egg Cartons	Explain acceptance for egg cartons	DEQ is not proposing changes in response to this comment. OAR-340-090-0630(2)(c) does not relate to egg cartons, since egg cartons are not typically constructed of paperboard. Rather, paper-based egg cartons are typically made of molded pulp, and molded pulp egg cartons are included in -0630(2)(e), which states "molded pulp packaging, excluding food serviceware".	13
2j	Other: Scrap Metal	Explain scrap metal definition	<p>DEQ is not proposing changes in response to this comment.</p> <p>DEQ consulted with several scrap metal brokers and recyclers to develop the definition of "scrap metal" for proposed rule OAR 340-090-0630(1)(m). The 50 percent standard defines the minimum that depots must accept, or alternatively, may not reject. Depot site and collection service</p>	13

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			<p>operators may choose to accept scrap metal that "is capable of being recycled" and which contains less than 50 percent metal by weight. Given the wide variety and diversity of metal-containing items in commerce, DEQ was unable to identify an alternative threshold for defining "scrap metal" that was more practical or easy to communicate than the standard proposed.</p> <p>"Other scrap metal" (o), by virtue of its location in the rule immediately following (n), includes all scrap metal not otherwise described in (n), such as scrap metal that is more than 10 pounds in weight, longer than 18 inches in length, and scrap metal including sharp items, bicycle chains, electrical wiring, other wires, and other similar items likely to cause tangling. For example, "other scrap metal" includes large appliances. Proposed rule OAR 340-090-0630(4)(a) proposes that depots provided under the opportunity to recycle should accept all scrap metal, including "other scrap metal", while proposed rule (4)(b) limits on-route collection obligations for collection service customers to the scrap metal described in (2)(n), and excludes "other scrap metal".</p>	
2j	Other: Nursery Packaging	Support including nursery packaging in the Uniform Statewide Collection List	Thank you for your comment.	11
2j	Other: Paper Bags and Envelopes	Limit acceptance of "paper bags and mailing envelopes"	DEQ is not proposing changes in response to this comment. The rule as drafted already excludes paper bags or mailing envelopes with a plastic liner. DEQ is not familiar with many other paper bags or mailing envelopes that contain some other type of "non-pulping filler" (one that does not also	13

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			involve a plastic liner). DEQ also notes that the inclusion of a non-pulping filler does not necessarily render the material non-recyclable. Non-pulpable fractions of composite paper packages are typically screened inside the pulping unit itself and removed for disposal, yet despite the cost of doing so, paper mills typically accept small amounts of non-pulping items to get access to more pulpable material. Finally, there are some new fillers that are pulpable but which may be perceived by the public to be "non-pulping" and it is unclear exactly how recycling programs would effectively communicate this proposed restriction to the public.	
2j	Other: Appliances	Require removal of refrigerants from appliances prior to acceptance	DEQ did not propose changes in response to this comment because ORS 459.247 prohibits the landfill disposal of large home or industrial appliances in Oregon landfills. ORS 459A.005 already requires that local governments provide a place for collecting source separated recyclable material, located either "at a disposal site or at another location more convenient to the population being served". DEQ considers the presence of a private appliance recycling service to be "another location". Further, disposal sites are allowed (and already do) charge a fee for the acceptance of refrigerant-containing appliances. Therefore, there are multiple pathways by which a local government can (and the vast majority already do) comply with the proposed rule.	13
2j	Other: Plastic Buckets, Pails and Storage Containers	Limit acceptance of plastic buckets, pails and storage containers	DEQ did not propose changes in response to this comment. Some plastic buckets, pails and related items (such as water storage containers) are larger than five gallons in size but are just as easy to recycle, than similar items 5 gallons in size or less. The only justification suggested for exclusion is "clarity and less	13

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			<p>confusion". DEQ does not expect significant confusion to result from the proposed rule. Local governments and their service providers should use consistent language, such as "buckets, pails and similar items that fit loosely in your roll cart" (per language found at the beginning of proposed OAR 340-090-0630(2)(j)) to ensure consistent messages and communications to the public. Excluding items larger than 5 gallons, as proposed would inconvenience the public, deprive the recycling system of materials that are easily separated at commingled recycling processing facilities, and reduce overall recycling rates.</p>	
2j	Other: Scrap Metal	Remove (non-packaging) scrap metal from the Uniform Statewide Collection List	<p>DEQ did not propose changes in response to this comment.</p> <p>This topic was discussed extensively during Technical Workgroup on Materials Lists meetings. Operators of Oregon commingled recycling processing facilities were strongly divided on including scrap metal in the uniform statewide collection list. All facility operators expressed concerns regarding potential safety impacts from large or heavy items moving through their facilities. Concerns were also expressed about the potential for damage to equipment and resulting financial impacts. At the same time, the recycling of metal can result in significant environmental benefits, and alternative (depot) infrastructure is not conveniently located for some people in Oregon (especially in larger urban areas). Not including scrap metal in the USCL would result in less recycling and fewer environmental benefits. DEQ's draft rules therefore proposed a compromise: 1) require all local government depots to accept scrap metal of all sizes, and 2) limit acceptance in USCL and on-route portion of the Local Government</p>	28, 42

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			<p>Recycling Acceptance List to items 10 pounds in weight and 18 inches in length or less, and further excluding sharp items (such as knives) and items that can easily tangle (such as wires). At present, scrap metal up to 30 pounds in weight or 30 inches in length is accepted by on-route programs in the Portland area, so this proposed rule will result in a reduction of access/convenience for residents in that part of the state.</p> <p>Potential customer confusion can be reduced through effective public outreach and communications.</p>	
2j	Other: Nursery Packaging	Remove nursery packaging from the Uniform Statewide Collection List, replace with transitional pilot project	<p>DEQ did not propose changes in response to this comment because nursery packaging, including a wider variety of materials than proposed for acceptance in this rule, is already accepted for recycling in commingled programs in the Portland area and Deschutes County. The draft rules would reduce the number and types of materials accepted in these communities, while expanding recycling opportunities in the rest of the state.</p> <p>Nursery packaging is proposed because users of the recycling system will be able to identify these materials, and commingled recycling processing facilities will be able to sort them or pass them downstream for sortation and separation at a facility that performs secondary processing. DEQ expects that CRPFs with advanced container-line sortation equipment may install currently-emerging technology (artificial intelligence) to separate these materials, while facilities that lack such advanced technology could pass them on to such more advanced facilities (or another secondary processor) as part of a load of mixed containers. Alternatively, the nursery packaging could be passed on</p>	13

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			<p>to one of several reclaimers of mixed plastics that are already separating these materials. In all those cases, the cost of processing and marketing materials will be compensated by producer responsibility organizations via the processor commodity risk fee (ORS 495A.923).</p> <p>DEQ received evidence demonstrating stable (and expanding), available markets for the resins of plastics included in the proposed rule (HDPE and PP). While nursery packaging is also made from polystyrene (PS) and other materials, effective public outreach can reduce the presence of such materials, and the contamination management fee (ORS 459A.920) paid by PROs to CRPFs will compensate them for separation and removal of contaminants.</p> <p>The Act contains multiple elements that minimize risk to users and operators of the CRPFs, including enhanced public communication (ORS 459A.893), permitting requirements on commingled processing facilities, including capture rates and contamination limits (ORS 459A.955), and responsible end market disposition requirements on both processing facilities (ORS 459A.955) and PROs (ORS 459A.896(2)).</p>	
3a	Convenience Standards	Allow convenience standards to be met through PRO funding of locally-operated on-route programs	This comment has been addressed by a revision to draft rule OAR-340-090-0640(6) where OAR-340-090-0640(6)(c) was added in response to another comment. Proposed OAR 340-090-0640(6) allows for a PRO to seek approval for an alternative compliance option, and if that option would reduce the number of collection points from what is required by rule, the PRO must also demonstrate that it has consulted with the city or county. The new subsection (6)(c) requires DEQ to consider whether the	29, 38

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			alternative compliance proposal has "demonstrated support of relevant local government(s)".	
3a	Convenience Standards	Change price premium for existing depots to 115 percent	DEQ is not proposing changes in response to this comment because there was no precedent found for a higher price premium. The proposed price premium of 110 percent is informed by the precedent of existing price premiums established by the Legislature in Oregon statute. DEQ understands that operation and maintenance investments have already been made at existing sites, potentially making those sites more economically attractive to a PRO.	13
3a	Convenience Standards	Confirm PROs will help pay for on-route collection of glass	DEQ is not proposing to make changes in response to this comment and would like to clarify that PRO obligations to compensate local governments for costs associated with collection and management of glass at depots are limited to the requirements contained in statute and rule, and do not extend to other funding mechanisms that may be explored "pursuant to RAC discussions". If a local government chooses to collect glass at a depot, depending upon the circumstances, funding for depot capital and operational costs may be provided under ORS 459A.890(5)(d)(B) or ORS 459A.896(1)(a). Depending on circumstances, this funding may be available regardless of whether the PROs are offering a similarly convenient glass collection option. In some cases, additional compensation for transport of the collected glass to a responsible end market will also be available per ORS 459A.890(2).	13
3a	Convenience Standards	Consider unique urban characteristics for convenience standard rules	DEQ is not proposing changes in response to this comment. Proposed convenience standards will provide for multiple collection points across Portland and other large, urbanized communities such as Eugene and	38

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			Bend. Proposed convenience standards also allow for collection points to be provided at locations such as retail and provide collection points to users of public transit services, where public transit exists. Collection targets and the plastics recycling goals in ORS 459A.926 may incentivize producer responsibility organization(s) to increase collection opportunities beyond the minimum requirements.	
3a	Convenience Standards	Define transit accessible recycling depots based on a 30-minute travel time window	DEQ is not proposing changes in response to this comment. While DEQ supports this comment in principle, it anticipates challenges with implementation. It would be difficult, in the Metro region, to define the service area or population for which a 30-minute travel time window is required? Additionally, it would be difficult to apply this standard because transit service can vary between times of day as well as days of the week.	20
3a	Convenience Standards	DEQ should plan permitting and licensing of depots to reduce barriers to small and COBID businesses	DEQ is not proposing changes in response to this comment because it is outside the scope of this rulemaking.	20, 36
3a	Convenience Standards	Encourage return-to-retail	DEQ is not proposing changes in response to this comment. Based on economic modeling performed DEQ's contractor, DEQ expects that return-to-retail may be significantly less expensive than stand-alone depots. Economic considerations suggest that in communities such as Portland where the number of required collection points exceed the number of "existing" depots, producer responsibility organizations may prioritize return-to-retail to meet convenience standards.	13
3a	Convenience Standards	Expand "existing depot" definition to include mobile- and	DEQ is not proposing changes in response to this comment. DEQ does not have the statutory authority to make this change. ORS 459A.896(1)	13



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		event-based providers	clearly differentiates between depots and mobile, events-based collection services, and only requires producer responsibility organizations to contract with existing providers of the former.	
3a	Convenience Standards	Explain distance-based convenience standard	DEQ did not propose any changes in response to this comment. DEQ expects that this calculation will be performed by the PRO(s). The standard itself was proposed to be consistent with a new convenience standard for Oregon E-cycles (HB 3220, 2023).	36
3a	Convenience Standards	Fully remove material from PRO Recycling Acceptance List if added to Uniform Statewide Collection List	DEQ did not propose any changes in response to this comment. Under the requirements of the Opportunity to Recycle Act (as revised), local governments are required to provide for acceptance of materials on the Local Government Recycling Acceptance List, including at depots located at sites such as transfer stations which accept solid waste from the public or other more convenient locations. If a material is added to the Uniform Statewide Collection List using the administrative mechanism described in ORS 459A.914(4)(b) (PRO program plan approval), local governments would be required to accept that material at their depots. DEQ expects that the local government would choose to accept the material as part of a commingled mix; in such cases, the marginal increase in collection costs are expected to be relatively small and any higher processing costs would eventually be compensated via a revision to the Processor Commodity Risk Fee. The rule as originally proposed eliminates the PRO's obligation to pay for collection of a transitioned material in such circumstances. However, DEQ anticipates the possibility that at some depots, physical or other logistical constraints or other considerations might lead some operators to continue	36

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			to accept the material source segregated from the public (not commingled).	
3a	Convenience Standards	Further evaluate value of transit access	DEQ did not propose any changes in response to this comment. The proposed rule requires a certain number of collection points to be convenient to users to transit in larger communities, and allows producer responsibility organizations to propose an alternative method of compliance.	29
3a	Convenience Standards	Increase convenience for collection of materials on PRO Recycling Acceptance List	DEQ did not propose any changes in response to this comment. The convenience standards proposed in the rules will significantly expand recycling opportunities for many people in Oregon. Higher levels of convenience and access are accompanied by higher costs. In these rules, DEQ attempted to balance environmental considerations with financial ones. DEQ agrees that greater convenience is environmentally preferable and notes other mechanisms in the Act that may result in producer responsibility organizations implementing additional solutions, such as those suggested. For example, a PRO may choose to offer additional collection opportunities in order to meet collection targets (OAR 340-090-0660) or plastics recycling goals (ORS 459A.926). The Act provides the PRO with flexibility in how to achieve those collection targets, while proposed rule OAR 340-090-0640(2)(h) requires a PRO to describe how it will provide enhanced access for populations that may otherwise find it difficult to participate in service at collection points.	28
3a	Convenience Standards	PROs should compensate the most convenient collection options	DEQ is not proposing changes in response to this comment because DEQ lacks statutory authority to require a producer responsibility organization to provide at-home collection service to all residents.	20, 36

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3a	Convenience Standards	Protect information regarding "existing depots" as confidential	DEQ is not proposing changes in response to this comment. The request is out of scope for this rulemaking, and may require changes to Oregon Public Records law.	13
3a	Convenience Standards	Require DEQ to adhere to dispute resolution process in statute	DEQ is not proposing changes in response to this comment. Statute (ORS 459A.875(2)(e)) requires a PRO program plan to propose a dispute resolution process for disputes involving payments by a producer responsibility organization required under ORS 459A.890, .920, and .923. The proposed process is intended to apply to disputes between a PRO and a local government or its service provider (.890), or between a PRO and a commingled recycling processing facility (.920 and .923). In proposed rule OAR 340-090-0640(1)(b)(D), DEQ has proposed extending the scope of the dispute resolution process to disputes between PROs and depot operators (almost always local governments or their service providers), specific to the provisions of OAR-340-090--0640(1). However, in the event that such a dispute resolution process results in an outcome that runs contrary to statute or rule, DEQ must retain the right to consider and pursue enforcement for a violation of law.	13
3a	Convenience Standards	Require PRO to pay any depot a per-ton fee for material collected	DEQ is not proposing changes in response to this comment. This proposed change could result in an outcome where a producer responsibility organization could be required to contract with thousands of new collection points. DEQ believes that would be inconsistent with legislative intent. The commenter seeks to identify pathways by which individuals other than local governments and existing service providers can participate in the recycling system as a provider of collection points for a PRO. There are other mechanisms by which this can	36

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			be achieved. DEQ has already broadened the definition of "existing depot" in OAR 340-090-0640(1)(a) from what was originally contained in its rule concept, to now include a site that is operated "at the direction of" a local government or a local government's service provider. A new service provider could also seek to contract directly with a PRO, which in some communities will need to establish additional collection points above and beyond those that are "existing" (see OAR 340-090-0640(2)(b) and (c)) and to provide enhanced access for populations that may otherwise find it difficult to participate in service at collection points (see OAR 340-090-0640(2)(h)).	
3a	Convenience Standards	Require PROs to compensate costs of on-route collection	DEQ is not proposing changes in response to this comment. DEQ does not have statutory authority to require a producer responsibility organization to provide or pay for the cost of on-route collection of covered products for all residents.	36
3a	Convenience Standards	Support for PRO depots in unincorporated communities	Thank you for your comment.	29
3b	Performance Standards	Allow greater flexibility in management of pressurized cylinders, aerosols	DEQ did not make changes in response to this comment because the contents of pressurized cylinders should be managed in accordance with applicable hazardous waste standards.  DEQ concurs that the proposed rule OAR 340-090-0650(3)(b) requires the safe and environmentally protective management of residual material found in two specific formats of packaging: aerosol cans and pressurized cylinders.	28
3b	Performance Standards	Conduct a study on the potential of artificial intelligence or	DEQ is not proposing changes in response to this comment because it is out of scope of the rulemaking. Performance standards are written to	18

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		robotics to reduce contamination	apply to PROs in their delivery of services to meet convenience standards for materials collected outside of the commingled recycling system. They do not relate to commingled processing facilities or DEQ research. Further, DEQ lacks statutory authority to require the PRO to perform such a study.	
3b	Performance Standards	Delete program plan requirement for collection events	DEQ is not proposing changes in response to this comment. Draft rule OAR 340-090-0650(2)(b) requires the PRO to "include in its program plan detailed policies and processes to ensure adequate staffing managing traffic flow, ensuring safety, and contingency plans for responding to larger-than-expected turnout." This proposed rule, as previously drafted, does not require the PRO to provide location- or event-specific details in their program plan, but rather detailed policies and processes including contingency plans.	28
3b	Performance Standards	Explain local government remedies for nuisance PRO collection points	DEQ is not proposing changes in response to this comment. The Recycling Modernization Act does not preempt local government nuisance abatement authority. The Act and the rules provide no specific new remedies to local governments, but a local government could report a perceived violation of a performance standard to DEQ, and DEQ could investigate and potentially seek a remedy by initiating an enforcement action.	13
3b	Performance Standards	Include fair wages and workforce development opportunities	DEQ is not proposing changes in response to this comment. DEQ lacks statutory authority to require PROs to address fair wages and workforce development as part of convenience standards.	20
3b	Performance Standards	Prevent PROs from choosing markets	DEQ is not proposing changes in response to this comment. The concern expressed in the comment is related to materials processed at commingled recycling processing	18

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			<p>facilities, but the comment itself is directed at rules involving performance standards. To clarify, in most cases DEQ expects that CRPFs will continue to market materials from their facilities. ORS 459A.896(3) prohibits a producer responsibility organization from taking possession of covered products from a processor for any purpose, without the written consent of that processor. With regards to materials subject to proposed OAR 340-090-0650 (performance standards), those materials will be collected primarily source segregated at depots and other collection points, thereby bypassing commingled recycling processing facilities. To the extent that such collections are provided by a PRO, or under contract to a PRO, it is reasonable that the PRO will choose where and how to market them (consistent with requirements of ORS 459A.896). Finally, a PRO choosing which markets to deliver materials to is fundamentally no different from a CRPF or private recycler doing the same.</p>	
3b	Performance Standards	PRO Program Plan to address social/equity impacts of collection events	<p>DEQ is not proposing changes in response to this comment because proposed rule OAR 340-090-0640(6)(b) already requires that collection events be predictable (a fixed set of locations on a regular schedule and promoted far in advance) and widely advertised. Proposed rule OAR 340-090-0650(2)(a) already requires coordination with relevant local governments and service providers regarding public outreach and promotion.</p> <p>The Commission does not have statutory authority to require a producer responsibility organization to pay local organizations to conduct outreach.</p>	36

Category Number	Rule Topic	Description of Comment	DEQ Response	Commenter #
3b	Performance Standards	PRO should contract for mobile collection options	DEQ is not proposing changes in response to this comment because the Commission does not have statutory authority to require this remedy.	36
3b	Performance Standards	Require living wage and supportive benefits for depot workers	DEQ is not proposing changes in response to this comment because the Commission does not have statutory authority to require this remedy.	36
3b	Performance Standards	Rules should empower local governments to help solve performance issues	DEQ is not proposing changes in response to this comment because the Act creates no new statutory authority for local governments over a producer responsibility organization. However, proposed rules do not preempt local governments from exercising existing authority, nor do they prohibit local governments from conducting outreach or offering technical assistance or other services to businesses or others that operate collection points. Local governments can also report any concerns regarding performance and performance standards to DEQ.	38
3b	Performance Standards	Transport costs should be covered for all depots regardless of ownership	DEQ is not proposing changes in response to this comment because the Commission only has authority to adopt rules requiring PROs to contract with "existing" depots, where doing so is "possible". The rules propose definitions of "existing depots" and "possible".	36
3c	Collection Targets	Clarify how material generation is to be calculated	DEQ is not proposing changes in response to this comment. Proposed rule OAR 340-093-0660(1)(c) already requires the PRO to consider sales data reported to it by its members when estimating the weight of materials generated.	28
3c	Collection Targets	Ensure enforceability of collection targets	Failure to achieve collection targets may be enforced against a PRO under ORS 459A.962, 459A.896(1) and 459A.875(2)(a) and 459A.875(3). DEQ did not make any changes to the draft rules in response to the comment.	38

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3c	Collection Targets	Support PRO discretion in proposing collection targets	Thank you for your comment.	27, 35
3d	Responsible End Markets	"End market" should not encompass the producer of the next product, as it will require the PRO to know proprietary information (the specific use of recycled commodities by a manufacturer)	<p>DEQ did not make any changes in response to this comment because many producers already meet the transparency requirements established under the RMA's "responsible" standard—many food and beverage packaging producers participate in post-consumer recycled content certification programs that require them to make data available and facilities accessible to third-party auditors.</p> <p>The "end market" definitions at proposed rule OAR-340-090-0670(1) extend to the producer of the next product for several material-specific supply chains—plastic for food and beverage and children's product applications, glass, and paper when the recycling process does not involve pulping (i.e., wallboard products made from waste paper). End markets that refuse to attest to receiving materials from Oregon would risk their continued ability to receive feedstock from any suppliers that market Oregon-origin waste.</p>	40
3d	Responsible End Markets	Allow DEQ to designate supply chain entities as "responsible"	<p>DEQ is not proposing changes in response to this comment. During the rule development process, the possibility of implementing the responsible end market provision through a DEQ "safe harbor" list was proposed and ultimately rejected, as such a list may give a false impression that a market is responsible in perpetuity when supply chains may meet the standard and then fall out of compliance in the future. The provision of this list could impact the ongoing need for regular scrutiny from the PROs and CRPFs.</p> <p>Under the proposed rule language, if a</p>	28



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			<p>problem is identified during the verification of an entity that receives waste collected for recycling in Oregon, the PRO would be given time to implement a practicable action and document progress towards compliance before DEQ would take an enforcement action.</p>	
3d	Responsible End Markets	<p>Allow the PRO to report average (for a particular category of end market) rather than facility-specific yield data to be measured against the 60% threshold</p>	<p>DEQ is not proposing changes in response to this comment because DEQ expects individual end markets to attest to their yield and that these attestations will be spot-checked by verifiers through desktop audits and site visits.</p>	40
3d	Responsible End Markets	<p>Amend the definitions of "end market" to encompass the producers and manufacturers of the next product</p>	<p>DEQ is not proposing changes in response to this comment. For glass, plastic food and beverage, and plastic children's product recycling supply chains, to the proposed rules define the "end market" as the producer of the next product from the recycled material.</p> <p>Materials will be used downstream of the definition of "end market" and that responsibility considerations can be adequately evaluated and addressed. For example, once waste paper is converted into a pulp product, economic considerations ensure that the pulp will be used in the production of new packaging or products. Whether the pulp is used to make newsprint, packaging, or toilet paper, most of the environmental impacts and benefits have already occurred. The benefit of requiring reporting downstream of that process is small.</p>	18, 23
3d	Responsible End Markets	<p>Change the definition of end market: to the point where material is</p>	<p>DEQ is not proposing changes in response to this comment because the proposed rules align with statute. While acknowledging that following materials further in the recycling</p>	13, 30

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		turned into commodity grade feedstock or reaches end-of-life according to Oregon's materials management hierarchy	<p>supply chain entails a reporting burden and additional costs, the statutory definition of "responsible end market" focuses on minimizing environmental impacts and risks to public health and worker health and safety.</p> <p>In some material-specific recycling supply chains the more substantial environmental impacts and risks to public health occur at the market that produces a product from the feedstock (for example, with metal supply chains, the smelter of the commodity feedstock that was shredded by a scrap recycler) as opposed to the market that produces the recycled feedstock (for example, the scrap recycler of metal). For such supply chains, stopping oversight at the producer of the feedstock will limit the ability to address life cycle impacts of the recycling process in alignment with the intent of the law per ORS 459A.860(4) and Oregon's revised material management hierarchy which emphasizes impact reduction (see ORS 459.015(2)(a)).</p>	
3d	Responsible End Markets	Clarify when a PRO must act or report a supply chain entity's non-compliance to DEQ	DEQ is not proposing changes in response to this comment. Proposed responsible end market rule OAR-340-090-0670(2), requires a facility to meet the "responsible" standard by being in compliance with all applicable laws and treaties. If a facility is found to be out of compliance with any applicable law or treaty during a verification conducted per 340-090-0670(3)(a)(B), this would be flagged to DEQ as part of the quarterly disposition reporting. The PRO would then have to define a practicable solution for the problem and report on its progress in its annual report to DEQ.	31
3d	Responsible End Markets	Clarify how the problem of end markets unwilling to	DEQ is not proposing changes in response to this comment because it finds that the consequences of noncompliance with this requirement	40

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		share their information or with insufficient documentation for the purposes of verifying their practices against the "responsible" standard will be addressed	will incentivize disclosure of information needed for verification. To meet the “responsible” standard in proposed rule OAR-340-090-0670(2), end markets and other downstream entities receiving Oregon's waste collected for recycling will need to track material or follow chain of custody protocols established by the PROs and commingled recycling processing facilities to enable their compliance with the law. Facilities are incentivized to be accessible and have chain of custody information available for verification because if a facility does not comply the PROs will be required establish a practicable action to address gaps in chain of custody or other issues with a facility's verification. A potential consequence would be for PROs to divert materials to another facility instead.	
3d	Responsible End Markets	Clarify how yields will be determined in cases in which a covered product on one of the acceptance lists includes multiple materials	DEQ is not proposing changes in response to this comment, because this information is already clarified in the draft rule language. The proposed rule language OAR-340-090-0670(2)(c)(B) specifies that for composite cans made of paper and steel, the 60 percent yield target needs to be met for either the paper or the metal fraction of the material. For all other multi-materials, the 60 percent threshold needs to be met for the product as a composite. The special treatment of paper-steel composite cans recognizes that, while they do not meet the 60 percent target as a composite, these containers performed adequately well against the other statutory requirements in ORS 459A.914(3) to be proposed for inclusion on the uniform statewide collection list, and that the environmental benefit of recovering the steel is viewed to outweigh the possible liability with respect to public confidence in the system resulting from less than 60 percent of a material	40

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			accepted for recycling actually being recycled.	
3d	Responsible End Markets	Clarify inclusion of noise pollution in the "responsible" standard	DEQ is not proposing any change in response to this comment because addressing noise pollution is outside the scope of this rulemaking. Compliance with existing noise regulations would be a criteria of meeting the "responsible" standard.	4
3d	Responsible End Markets	Clarify that random bale tracking is to be done with consent of the entity baling the material	DEQ is not proposing any changes in response to this comment because it is outside the scope of this rulemaking. GPS bale tracking could be accomplished either by placing a tracker into a bale of waste or by placing a tracker into an individual piece of waste prior to its collection for recycling. More information relevant to this requirement can be found on page 8 of the PRO Program Plan evaluation <a href="#">internal management directive</a>	30
3d	Responsible End Markets	Clarify the requirement regarding willingness to be audited and monitored for emissions and disposal: by whom?	DEQ is not proposing any changes to the proposed rule OAR-340-090-0670(2)(C). Willingness to be audited and monitored for emissions and disposal by the PRO or third-party certifiers is a requirement to meet the "responsible" standard.  PRO(s) will propose approaches to facilities' verification in their program plan as described in the PRO program plan evaluation <a href="#">internal management directive</a> .	31
3d	Responsible End Markets	Clarify the science behind the practicability financial benchmark	DEQ is not proposing any changes in response to this comment. DEQ determined a "practicability" benchmark value of \$2,017 per ton through a comparison of two scenarios described in the <a href="#">Overview of Scenario Modeling Report</a> : Scenario 24, which models recycling acceptance lists most aligned with the proposed rules, and Scenario 25, a "zero recycling" scenario. Scenario 24 is estimated to	4

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			<p>result in \$1,039.40 million/year lower costs to society due primarily to reduced pollution, and recycling tonnages that are 492,900 tons/year higher, or approximately \$2,017/ton in lower costs. This benchmark represents what a rational society should be willing to pay to achieve the benefits of recycling. It is likely an underestimate because the estimate of pollution impacts is incomplete, while the direct costs have no major omissions.</p> <p>Within the referenced report, Scenarios 24 and 25 are compared on pages 58 and 59; pages 109 – 112 provide additional details on these scenarios. The basic modeling approach is summarized in pages 3 – 15. Tonnage and direct cost modeling is detailed in Appendix B (pages 113 – 166) while the indirect cost model is detailed in Appendix C (pages 167 – 175).</p>	
3d	Responsible End Markets	Clarify the timeline is for taking practicable actions to rectify non-compliance within the end market supply chain to avoid penalty, and whether or not there is flexibility	<p>DEQ is not proposing any changes in response to this comment. If an entity receiving waste collected for recycling in Oregon is found to not meet the "responsible" standard as described at proposed rule OAR-340-090-0670(2), a violation of ORS 459A.896(2)(a) has occurred and a PRO must undertake a practicable action as defined in proposed rule OAR-340-090-0670(5). A PRO should begin undertaking a practicable action immediately upon discovery of a violation.</p> <p>If a practicable action is not undertaken or is insufficiently paced, DEQ's enforcement response will be informed by the severity of the problem. There is variation in terms of the necessary pace of this responsiveness (i.e., how much progress needs to be demonstrated over a period of time). If there are</p>	31

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			reasonable circumstances that result in a PRO needing a longer timeline for completing a particular action, this could be taken into consideration on a case-by-case basis during the pre-enforcement or enforcement process.	
3d	Responsible End Markets	Clarify what would be considered "adequate emergency response"	<p>DEQ is not proposing any changes in response to this comment because, per DEQ's PRO program plan <a href="#">internal management directive</a> (pages 54-55), PROs will describe the method for verifying environmental soundness in their program plans for DEQ review and approval. For example, a PRO could address adequate emergency response by verifying that an environmental health, safety, and management plan exists and that the plan includes a process that minimizes the environmental damage from a fire, spill, release or other such emergency.</p> <p>Several third-party certifications operating in the recycling sector include a similar requirement in their standard, for example, the ISO 14001 facility certification for environmental management systems. DEQ encourages prospective PROs to research approaches from other certification programs in developing their program plans.</p>	27, 41
3d	Responsible End Markets	Clarify what would qualify as "managing inputs sustainably" or remove this requirement	<p>DEQ is not proposing any changes in response to this comment because, per DEQ's PRO program plan <a href="#">internal management directive</a> (pages 54-55), PROs will describe their approach to verifying environmental soundness in their program plans for DEQ review and approval. For example, regarding sustainable management of inputs, a PRO could verify that the facility actively monitors energy and water consumption, sets targets for meaningful reduction, and tracks progress.</p> <p>Several third-party certifications operating in the waste sector include a</p>	27, 41

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			similar requirement in their standard, for example, the Global Recycled Standard 4.0. The PRO can inform the design of its verification program through research into the approaches taken by such certifications.	
3d	Responsible End Markets	Clarify whether random bale tracking is to be done using bar codes or GPS trackers	DEQ is not proposing any changes in response to this comment in order to allow PROs flexibility to propose a method that will fulfill the intent of the random bale tracking requirement in proposed rule OAR 340-090-0670(4) and provide an auditing of material destination.	30
3d	Responsible End Markets	Clarify whether the minimum yield threshold applies to end market products on an individual or a cumulative basis	<p>DEQ is not proposing any changes in response to this comment. As described in proposed rule OAR 340-090-0670(2)(c)(A), for most materials, yield is calculated based on materials entering the recycling supply chain initially, downstream of the commingled recycling processing facility or PRO collection point. The numerator is calculated at the end market, which is defined in proposed OAR 340-090-0670(1).</p> <p>In some cases, the end market is the manufacturer that uses the materials that contain recycled feedstock, but in many cases it is not. In cases where the end market is the manufacturer that uses the materials that contain recycled feedstock, the numerator in the yield calculation would be based on total usage of recycled material from Oregon, and not calculated on a per-item basis or based on total production by that manufacturer. This is not a recycled content mandate.</p>	18
3d	Responsible End Markets	Clarify who can approve a third-party certification for use to fulfill the responsible end market obligation,	DEQ is not proposing any changes in response to this comment because statute specifies who can approve a third-party certification. Per ORS 459A.955(2)(h)(A)(ii) and proposed rule OAR-340-090-0670(3)(a)(B), * the Environmental Quality Commission could approve a third-	31

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		Oregon's EQC or an EQC equivalent operating in another jurisdiction	party certification for use by commingled recycled processing facilities and by PROs, respectively, to implement their obligation to send waste collected for recycling to responsible end markets.	
3d	Responsible End Markets	Clarify why DEQ thinks that a PRO feasibly can know the identity of the end market or intermediary supply chain entities for recycled materials	<p>DEQ is not proposing changes to the draft rules because chain of custody tracking systems are common throughout many industries, allowing visibility and verification of material movement in the supply chain. One example of this system in the waste sector that was developed in response to regulation is the manifesting system used by generators obligated under the Resource Conservation and Recovery Act (RCRA) to track where their waste goes. Disposition reporting and tracking is a part of packaging EPR programs in Canadian provinces, and the PROs in our system may bring expertise from these efforts to fulfill the requirement to report quarterly on disposition of materials on the PRO recycling acceptance list through to the end markets.</p> <p>Commingled recycling processing facilities will also be required to report disposition for materials under their control to DEQ, and DEQ will anonymize and share this reporting with the PROs so that the PRO can be aware of the entities that require verification in order to comply with proposed rules 340-090-0670.</p>	4
3d	Responsible End Markets	Clarify why self-attestations are necessary when the PROs will conduct more detailed verifications subsequently	<p>DEQ is not proposing any changes in response to this comment. Concern over Oregon's waste going to irresponsible end markets was one motivating force behind the Recycling Modernization Act, and many interested parties want immediate action to address the problem. While it takes time to conduct detailed verifications, obtaining self-attestations poses less administrative</p>	



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			<p>burden, and a full set of self-attestations from all downstream entities reasonably can be expected to be in place at the start date of the program on July 1, 2025 (for materials under PRO control).</p> <p>The risk of facing enforcement action for false swearing may motivate some respondents to the self-attestation form to pursue improvements pre-emptively or flag improvement needs to PROs, leading to possible faster implementation of practicable actions. Proposed rule OAR 340-090-0670(3)(d) allows a PRO to avoid the self-attestation process by accelerating verification.</p> <p>As the law is designed to deliver meaningful improvement to the state's recycling system at the start date or soon after, no change was made to the rule language in response to this comment, and the requirement to submit self-attestations stands.</p>	
3d	Responsible End Markets	Consider the safety risk posed by battery-powered GPS trackers for random bale auditing	DEQ does not propose changes to the draft rules in response to this comment. Per page 8 of the PRO program plan evaluation <a href="#">internal management directive</a> , prospective PROs can describe measures to ensure safety and prevent early loss or destruction of GPS trackers for random bale monitoring in their program plans. For example, a PRO could choose to use trackers with non-lithium-ion batteries as a precaution to ensure safety.	40, 41
3d	Responsible End Markets	Define "societal benefit"	DEQ is not proposing changes in response to this comment. "Societal benefit" in the context of proposed rule 340-090-0670(5)(c) means any benefit, including environmental, economic, or other, that results from undertaking a practicable action and accrues to society. For example, an action taken that increases recycling could result in less pollution due to	13, 16

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			<p>reduced need to extract virgin material. The recycling acceptance list <a href="#">modeling</a> completed by DEQ provides an example of the quantification of societal benefits. In the analysis, societal benefits appear as negative indirect costs. A PRO might take a similar analytical approach in making a case that an action is not practicable. The benchmark for average societal benefit of recycling is drawn from this analysis. The proposed rule provides a benchmark average societal benefit of recycling of \$2,017 per ton expressed in 2021 dollars, while allowing a PRO to undertake its own customized analysis. This benchmark only encompasses societal benefits that were readily calculable and does not encompass such benefits as increased consumer confidence in the recycling system and increased societal stability.</p>	
3d	Responsible End Markets	<p>Defining the “end market” as the producer of the next product for certain plastics adds no public health or environmental benefit as it duplicates FDA regulation</p>	<p>DEQ is not proposing changes in response to this comment. The Food and Drug Administration (FDA) non-objection letters are voluntarily sought by some plastics recyclers and represent the FDA's informal advice regarding the suitability of the recycler's product for use in food and beverage contact applications. DEQ’s regulatory approach fills in gaps rather than duplicates FDA action, particularly with respect to those recyclers that have not obtained non-objection letters.</p> <p>Note that recyclers that have obtained letters of non-objection can provide them to the PRO during the verification process as evidence to support claims of environmental soundness and transparency.</p>	13, 16
3d	Responsible End Markets	<p>DEQ should clarify the compliance cost of the responsible end market provision</p>	<p>DEQ is not proposing changes in response to this comment. DEQ cannot estimate the cost of compliance associated with fulfilling the responsible end market provision until it receives disposition data from the</p>	31

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			PROs and commingled recycling processing facilities, as well as detailed verification reports for downstream entities from the PROs per the schedule in proposed rule OAR-340-090-0670(3). Note that compliance costs are capped by the practicability standard (\$2,017/ton).	
3d	Responsible End Markets	DEQ should minimize the massive administrative burden that the responsible end market provision places on the PROs	DEQ is not proposing changes in response to this comment. The PROs and commingled recycling processing facilities will bear an administrative burden associated with fulfillment of the responsible end market provision. In many industries it is standard practice to verify markets and chain of custody for the purpose of either legal compliance or corporate social responsibility.	28
3d	Responsible End Markets	Development of new end markets should not be included among practicable actions	DEQ is not proposing changes in response to this comment. Addressing the environmental and public health impacts of irresponsible end markets was a major impetus for the Recycling Modernization Act, and DEQ determined that producer funding to develop alternative markets corresponds with the legislative intent of the Act. The inclusion of end market development among the list of practicable actions does not mean it is a required action; it is an option to address a problem at an end market. A PRO may also provide justification as to why no practicable action is possible, or may propose a different practicable action.	4
3d	Responsible End Markets	Do not arbitrarily extend the end market definition forward to the producer of the next product for one material only	DEQ is not proposing changes in response to this comment. The “end market” definitions at proposed rule OAR-340-090-0670(1) extend to the producer of the next product for several material-specific supply chains, including plastic for food and beverage and children’s product applications, glass, and paper when the recycling process does not involve	40,41

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			<p>pulping. The choice of these recycling pathways reflects specific cases where the potential for significant environmental or social impact extends beyond initial reclamation of the recycled material. Oregon's law prioritizes recycling to reduce environmental impacts as opposed to merely keeping materials in circulation.</p>	
3d	Responsible End Markets	End market for glass should be the beneficiation plant rather than the producer of the next product	<p>DEQ is not proposing changes in response to this comment. PROs are required to send materials collected for recycling in Oregon to "responsible end markets" per ORS 459A.896(2)(a). Additionally, ORS 459A.896(2)(b) requires PROs to ensure that materials are managed in alignment with Oregon's materials management hierarchy under ORS 459A.015(2), i.e., that they go to their highest and best use. For these requirements to maximize the benefits from recycling Oregon's materials, the "end market" for glass recycling supply chains must be designated to encompass the regulatory net maximum potential to reduce impacts to the environment and public health. In glass recycling pathways, substantial environmental impacts and risks to public health caused by air pollution and greenhouse gas emissions, occur because of the material flowing to different potential end markets (i.e., bottle maker, fiberglass producer, pozzolan producer). The environmental impacts of glass recycling are highly variable and dependent on where and how the glass is recycled. Designating the beneficiation plant that crushes the recycled glass as the "end market," i.e., one step earlier in the supply chain, would exclude these important impacts from consideration and not fulfill the statutory intent of the policy.</p>	13, 16

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3d	Responsible End Markets	End market for metal should be the scrap metal recycler rather than the smelter	DEQ is not proposing changes in response to this comment. The statutory definition of "responsible end market" focuses on minimizing environmental impacts and risks to public health and worker health and safety. In metal recycling supply chains, substantial environmental impacts and risks to public health caused by air pollution and greenhouse gas emissions, occur at the smelting facility. Therefore, DEQ proposed to define the end market as the smelter. Designating the scrap metal recycling facility that sorts and shreds the metal as the "end market," i.e., one step earlier in the supply chain, would exclude these important impacts from consideration and not fulfill the statutory intent of the policy.	13, 16
3d	Responsible End Markets	Environmental soundness: identify the standards or criteria a PRO must use for measuring whether a facility is operating "sustainably" or "responsibly."	DEQ is not proposing changes in response to this comment. The commenter inquires about the meaning of "sustainably" and "responsibly" in the rule language at OAR-340-090-0670(2)(b)(C) regarding environmental soundness. Although the term "responsibly" is not included in the rule language, "sustainably" is included, and the response focuses on its meaning. As described in the PRO program plan evaluation <a href="#">internal management directive on pages 54-55</a> , PROs will describe their approach to verifying environmental soundness in their program plans for DEQ review and approval. With respect to managing inputs "sustainably," a PRO could, for example, verify that the facility actively monitors energy and water consumption, sets targets for meaningful reduction and tracks progress. A PRO could also verify that the facility's energy and water consumption are not resulting in meaningful negative impacts to adjacent ecosystems and communities.  Several third-party certifications	31

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			operating in the waste sector include a similar requirement in their standard --for example, the Global Recycled Standard 4.0 includes energy use and water use requirements. The PRO can inform the design of its verification program through research into the approaches taken by such certifications.	
3d	Responsible End Markets	Group plastic products made from the same resin together for the purpose of evaluating yield	<p>DEQ is not proposing changes in response to this comment because allowing yield to be calculated across all formats for the same resin could obscure important information necessary to provide the people of Oregon with confidence that the materials and formats they are encouraged to recycle are actually being recycled.</p> <p>Some plastic reclaimers sort PET thermoforms out of PET bales prior to processing and divert them to landfill. If PET thermoforms appear on an Oregon materials acceptance list, this practice would not meet the "responsible" standard and it would be flagged during the market verification or certification process. This is one reason why separate yield assessments are required for plastic product formats of the same resin in proposed rule OAR-340-090-0670(2)(c)(D). The formats identified in proposed rule OAR-340-090-0630(2)(j)(C) and (D) [was (k)(C) and (D) in the draft rule], large plastic containers and nursery packaging, each have attributes that will require special handling. Large format packaging will require effective sortation in the pre-sort area and the materials may go to a different end market than other formats of the same material. Nursery packaging, due to its typical use of very dark pigments, will likely require enhanced sortation technology.</p> <p>Self-attestation of yield by the</p>	28

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			recycling facility accompanied by methodological justification and reviewed during the verification process is sufficient to fulfill the requirement (the rule language has been updated in response to another comment). During a site visit to a plastic reclaimer, a verifier may see that PET thermoforms or another product format are being sorted out of a bale prior to processing for diversion to landfill, and flag this as an irresponsible market, triggering the requirement for a practicable action.	
3d	Responsible End Markets	Incidental materials not targeted for recovery, including coatings (e.g., coatings on polycoated cups) should not be factored into the denominator for the 60% yield threshold	DEQ is not proposing changes in response to this comment because DEQ sees no need to allow for an adjustment to the yield denominator to subtract off the weight of a material's coating. To be proposed for inclusion on a recycling acceptance list in the current rulemaking, a material was screened against a dozen statutory criteria listed in ORS 459A.914(3), including yield per subsection (3)(c). Based on data gathered for this screening, polycoated materials including cups can achieve the proposed 60 percent yield threshold as a composite material. However, requested adjustments will be allowed for contamination, incidental materials that adhere to received material, and moisture, per updated proposed rule language at 340-090-0670(2)(c)(C).	40
3d	Responsible End Markets	Indicate in rule that lab testing can be used to verify yield at end markets	DEQ is not proposing changes in response to this comment. While lab testing could be used to verify yield, it goes beyond the intention of the yield requirement described in proposed rule OAR-340-090-0670(2)(b)(D). The intention of the yield requirement is to provide an assurance to the public that materials listed on the Uniform Statewide Collection List will be recovered for recycling. An example of this involves polycoated cartons that are blended with mixed paper. In that example, the	28

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			<p>bale would need to be sent to a paper mill that can recover at least 60 percent of the polycoated cartons (in addition to 60 percent of the other mixed paper). Allowing the yield to be calculated only at the level of the whole bale would allow the bale to go to a paper mill that recovers none of the fiber in the carton, so long as 60 percent of the whole bale is recovered. Such an outcome would violate one of the primary intentions of the Recycling Modernization Act, which is to restore public confidence that the materials on the acceptance list which they properly prepare and set-out for recycling actually will be recycled.</p> <p>Rule language updated in response to other comments at 340-090-0670(2)(c)(E) indicates that separate yields for materials mixed together in a bale may be estimated and self-attested to by entities in the recycling supply chain, with methodological justification provided.</p>	
3d	Responsible End Markets	Issue guidance on how elements of the waste system can drive down emissions from material collection and processing	<p>DEQ is not proposing changes in response to this comment because emissions from on-route collection and initial processing at commingled recycling processing facilities are not in the scope of this rule.</p> <p>Greenhouse gas emissions could be taken into consideration in the context of a verification of an entity processing recyclables collected from Oregon (i.e., post-collection and downstream of a commingled recycling processing facility) against the "responsible" standard. PROs will design their verification programs for DEQ review and approval as part of the program plan review process. Greenhouse gases are relevant to the "responsible" standard with respect to the compliance and environmental soundness elements of the standard. Should a facility be found to be out of</p>	38



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			<p>compliance with an applicable law regarding greenhouse gas emissions or inadequately containing emissions, PROs would need to undertake a practicable action to address the problem.</p>	
3d	Responsible End Markets	<p>It is unclear who would do the monitoring and what entities would be appropriate to validate environmental soundness</p>	<p>DEQ is not proposing changes in response to this comment. Per proposed rule OAR-340-090-0670(3), two pathways are provided for verification that supply chain entities are "responsible": third-party certification and PRO verification. Once a third-party certification program benchmarks adequately against the "responsible" standard in rule, the Environmental Quality Commission may, in a subsequent rulemaking, approve its use by a PRO to fulfill elements of the responsible end market obligation. In the meantime, PRO verification can be used to verify markets.</p> <p>The PROs will propose their verification programs in detail in their program plans, which will be reviewed and approved by DEQ per ORS 459A.878.</p>	27, 41
3d	Responsible End Markets	<p>Lifecycle evaluation of materials in the waste system should take into consideration present and future GHG reduction efforts</p>	<p>DEQ is not proposing changes in response to this comment because the law already provides for, and DEQ has demonstrated a commitment to, consideration of life cycle environmental impacts. Verifying that supply chain entities receiving waste collected for recycling in Oregon meet the "responsible" standard at proposed rule OAR-340-090-0670(2) does not encompass evaluation of the life cycle impacts of covered products, and is outside the scope of these rules.</p> <p>Life cycle impacts are relevant for PROs in fulfilling an obligation per ORS 459A.896(2)(b) to manage materials according to Oregon's material management hierarchy to send materials to their highest and best</p>	38

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			<p>use, and present greenhouse gas emissions are a consideration in evaluating whether or not a particular material pathway would meet the requirement.</p> <p>In addition, ORS 459A.914(3) requires DEQ and the Commission to consider environmental impacts from a life cycle perspective prior to placing a material on a recycling acceptance list. A new revision proposed as OAR 340-090-0630(4)(g) requires a producer responsibility organization, when proposing materials for inclusion in the uniform statewide collection list, to evaluate those materials against the same criteria. Responding to ORS 459A.914(3) in its <a href="#">technical assessment</a> leading up to and supporting this rule, DEQ conducted extensive modeling and analysis of environmental impacts including greenhouse gas emissions, both at the level of the entire recycling system as well more detailed analyses focusing on glass, expanded polystyrene, and polycoated/aseptic cartons. ORS 459A.875(2)(I) also requires additional analysis for proposed disposition pathways involving non-mechanical recycling.</p>	
3d	Responsible End Markets	Make clear that a PRO cannot take materials from a processor without consent	<p>DEQ is not proposing changes in response to this comment because ORS 459A.896(3) already specifies that a PRO cannot take possession of covered products from a processor for any purpose without that processor's written consent.</p> <p>The Act establishes joint responsibility for Oregon's recycling system among processors and PROs, rather than making PROs solely responsible.</p>	18
3d	Responsible End Markets	Make material tracking beyond the producer of the commodity	DEQ is not proposing changes in response to this comment. The statutory definition of "responsible end market" focuses on minimizing environmental impacts and risks to	13

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		feedstock voluntary	<p>public health and worker health and safety.</p> <p>In some material-specific recycling supply chains substantial environmental impacts and risks to public health occur at the market that produces a product from the feedstock. For such supply chains, voluntary reporting beyond the producer of the recycled feedstock would limit the ability to address life cycle impacts of the recycling process in alignment with the intent of the law.</p>	
3d	Responsible End Markets	Mandate that local governments and the entities with which they contract to process recyclables must provide the necessary information to a PRO in order to verify recycling supply chains	DEQ is not making changes in response to these comments because additional information is not needed to identify supply chain entities. The main information needed for verification of recycling supply chains is disposition reporting through to end markets indicating all facilities downstream of commingled recycling processing facilities (or post-collection for supply chains without CRPFs). PROs will need to set up systems to track the PRO Recycling Acceptance List materials that they collect at their depots through the supply chain. For materials on the uniform statewide collection list, commingled recycling processing facilities must, per ORS 459A.955(2)(h)(i), provide disposition reporting to DEQ. DEQ will aggregate the information from these reports, removing the names of the source processors, and share it with the PROs.	27, 41
3d	Responsible End Markets	Mandate that recyclers provide yield data to PROs	DEQ is not making changes in response to these comments because DEQ is not mandating that entities receiving waste collected for recycling in Oregon provide data to verify or certify that they meet the "responsible" standard. The proposed rules require commingled recycling processing facilities and PROs to send materials collected for recycling to responsible end markets, and if a downstream	27, 41

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			entity is not meeting the "responsible" standard, the PRO must pursue a practicable action defined in proposed rule OAR-340-090-0670(5). One example practicable action is diversion of materials to an end market that does meet the "responsible" standard, which would lead to loss of revenue for an entity unwilling to provide its data for verification or certification.	
3d	Responsible End Markets	Once a material has a proven track record of recyclability, move the "end market" to an earlier node in consultation with the Recycling Council	DEQ is not proposing changes in response to this comment. The statutory definition of "responsible end market" focuses on minimizing environmental impacts and risks to public health and worker health and safety rather than a narrow focus on whether a material was successfully recycled. Impacts can change over time even for materials that have a proven track record of recyclability. Therefore, it was important to consider where impacts occur in a material-specific supply chain when defining the "end market" in these draft rules. It would also be an important consideration in any future rulemaking should OAR- 340-090-0670(1) undergo revision. because "End market" is defined in rule so changes would occur in a rulemaking rather than in implementation in consultation with the Recycling Council.	13
3d	Responsible End Markets	Plastic packaging producers may refuse recycled plastic from Oregon if they have to report on their use of commodity feedstock	<p>DEQ is not proposing changes in response to this comment. The comment suggests competitive disadvantages, costs, and administrative burdens as reasons why producers of plastic food and beverage packaging and children's products would not be willing to provide chain of custody information during a verification.</p> <p>DEQ anticipates that there will be nominal costs associated with providing the information required for the verification process. However,</p>	40

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			<p>DEQ did not receive any information indicating that sharing this information with a PRO would result in a competitive disadvantage.</p> <p>DEQ notes that some food and beverage producers are already voluntarily or required to use post-consumer content in plastic packaging, and in both cases, a related verification process is already required or warranted. Finally, in some cases it may be appropriate for producers of food and beverage products and children's products to not use recycled content, and make that material available to other end users - end users which the Association of Plastics Recyclers has previously noted may be deprived of recycled content as more post-consumer recycled content mandates (from other states) come into effect.</p>	
3d	Responsible End Markets	PROs will have insufficient direct knowledge of or control over the contracts or agreements between processors and their customers to fulfill their obligation	<p>DEQ is not proposing changes in response to this comment because the rule as drafted meets the intent of the Act. PROs and commingled recycling processing facilities have a joint obligation to send materials collected for recycling in Oregon to responsible end markets. PROs will be informed of the destinations of materials marketed for recycling by commingled processors through quarterly reporting that processors will submit to DEQ. DEQ will then anonymize the information and send it to the PROs. This information will allow PROs to know which facilities they will need to verify against the "responsible" standard.</p> <p>An end market may choose not to provide information to a PRO (or commingled processing facility) that is needed to verify compliance with the responsible end market standard. This could indicate that the end market is unwilling to be held to responsible end</p>	40

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			<p>market standards; in that case, the PRO (or commingled processing facility) would need to direct materials in the future to an end market that does meet the responsible end market standard. The Recycling Modernization Act is designed to provide the public with assurances that the materials they properly prepare and separate for recycling are in fact being recycled in ways that benefit, and do not harm, the environment. This requires a degree of transparency and disclosure.</p>	
3d	Responsible End Markets	<p>Providing financial support for CRPFs to divert materials to a different end market should not be included among “practicable actions”</p>	<p>DEQ is not proposing changes in response to this comment. OAR-340-090-0670(5)(a) defines "practicable action" by listed example. The PRO is not required to take any particular action in this list but must undertake a practicable action when an irresponsible end market is detected. There is a joint obligation to send materials collected for recycling to a responsible end market between the PROs and commingled recycling processing facilities. For materials passing through the CRPFs, either a PRO or a CRPF may be the entity to initiate an action to remedy a problem market. Either way, the PRO has the primary financial responsibility because if an expense associated with remedying a problem market is borne by a CRPF, it will be captured in subsequent calculation of the processor commodity risk fee, which the PRO will in turn pay to the CRPFs.</p> <p>DEQ does not see a substantive difference between the PRO bearing the cost of material diversion immediately or subsequently through recalculation of the processor commodity risk fee. In some cases, redirecting material to a different end market may be the most cost-effective option available.</p>	28

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3d	Responsible End Markets	Recycled plastics verified by accepted third party certification bodies should be considered compliant with responsible end market requirements	<p>DEQ is not proposing changes in response to this comment. Per ORS 459A.955(2)(h)(ii) and proposed rule OAR-340-090-0670(3), third-party certification can be used by commingled recycling processing facilities and by PROs, respectively, to comply with the responsible end market provision. Until a certification program benchmarks sufficiently well against the "responsible" standard to be approved in rule for use, PRO verification can be used to verify entities that receive waste collected for recycling in Oregon and comply with the responsible end market provision.</p> <p>The comment aligns with what is already in statute and proposed rule.</p>	25
3d	Responsible End Markets	Require processors to report their end markets, as they may be hesitant to share what they view as confidential information	<p>DEQ is not proposing changes in response to this comment because the obligation of commingled recycling processing facilities to send materials collected for recycling to responsible end markets is outside the scope of this rulemaking.</p> <p>Processors are required by statute at ORS 459A.955(2)(h)(A) to either report the disposition of their materials to DEQ or to obtain an EQC-approved third-party certification that the facilities to which they are marketing materials meet the "responsible" standard. Until such a certification is approved in rule, processors will have to report their disposition to DEQ. Thus, PROs will know where processor-marketed materials are going and be able to verify these markets against the "responsible" standard.</p> <p>For more information, please review this DEQ <a href="#">presentation</a> describing the results of the benchmarking of third-party certifications</p>	40

Category Number	Rule Topic	Description of Comment	DEQ Response	Commenter #
3d	Responsible End Markets	Require recyclers to report to the PROs information necessary for verification, including yield	DEQ is not proposing changes in response to this comment. The obligation to send materials collected for recycling to responsible end markets is borne jointly by commingled recycling processing facilities and producer responsibility organizations, and DEQ's enforcement authority is over these two entities rather than end markets and other entities that process Oregon's waste downstream of the CRPFs and PROs. DEQ views that these downstream entities, whose performance must be verified against the "responsible" standard, will provide the information and facility access to PROs because it is in their business interest to comply.	40
3d	Responsible End Markets	Revise the responsible end market rules after first surveying Oregon and US markets	DEQ is not proposing changes in response to this comment. DEQ surveyed markets in the development of the proposed rule language and for the material acceptance list rules (OAR-340-090-0630). Materials were screened against statutory criteria listed at ORS 459A.914(3), including the presence of responsible end markets—in Oregon, the United States, or elsewhere in the world—to accept and process those materials. This screening process informed the responsible end market rules (OAR-340-090-0670). DEQ's assessment was conducted at a relatively high level and additional verification will be needed. As part of its "shared responsibility" framework, the Act clearly indicates that the producer responsibility organization(s) and commingled processing facilities are responsible for performing or obtaining that verification, subject to review and oversight by DEQ.	23
3d	Responsible End Markets	Rules should clarify that "incidental materials" not	DEQ is not proposing changes in response to this comment. Language in proposed rule OAR-340-0670(2)(c)(D) clarifies when yields of	40



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		targeted for recovery are not also subject to meeting their own yield standard	<p>materials mixed together in a bale must be individually rather than collectively measured against the 60 percent threshold. DEQ agrees that there must be a means of distinguishing when a material is considered a bale component (and individually subject to the 60 percent threshold) vs. when a material is considered incidental. This was not within the scope of this rulemaking but will be addressed in the second rulemaking, during which material-specific capture rate targets will be set as a permit requirement for commingled recycling processing facilities. Materials requiring separate measurement of yield within a bale per proposed rule OAR-340-090-0670(2)(c)(D) and counted by a CRPF toward a capture rate will be considered a bale component and held individually to the 60 percent threshold. If that same material is not being counted by the source processor toward meeting a capture rate, then it will be considered incidental and the entire bale will be held to the 60 percent threshold rather than the individual component materials. This rule concept was introduced to the CRPF technical work group at its August 14, 2023, meeting.</p> <p>The PROs' responsible end market mandate in the Act (ORS 459A.896(2)) applies only to materials listed in ORS 459A.869(7), and those materials exclude contamination that comes in with other materials on the USCL (869(7)(b) is limited to materials identified on the USCL), unless that material separately meets one of the other criteria in 869(7).</p>	
3d	Responsible End Markets	Take a more nuanced approach than a 60% threshold for yield and	DEQ is not proposing changes in response to this comment. The 60 percent threshold for yield at proposed rule OAR-340-090-0670(2)(b)(D) is intended to address a very specific	42

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		rather assess appropriateness of end markets on the basis of multiple factors (yield, technology, material)	problem of certain components of particular mixed bales being diverted to landfill or other end-of-life disposition by an end market instead of being recycled. For example, aseptic cartons in mixed paper bales. DEQ considers that the existing proposed rule will achieve this intent and that development of a more detailed approach to verifying yield and “appropriateness” of end markets on the basis of multiple factors would unnecessarily impose additional reporting and verification burdens on PROs. Furthermore, the commenter’s concerns may be partially addressed through a statutory requirement at ORS 459A.896(2)(b) that PROs manage materials according to Oregon's hierarchy of materials management options under ORS 459.015(2).	
3d	Responsible End Markets	Take provision of living wage jobs in the community into account in the "responsible" standard	DEQ is not proposing changes in response to this comment because living wages are outside the scope of this rulemaking. Statute addresses living wages in ORS 459A.905(2)(c) and requires the payment of living wages and supportive benefits to workers at commingled recycling processing facilities. A similar provision is not included in the Act for entities downstream of the commingled recycling processing facility in recycling supply chains. However, labor issues including payment of sufficient wages could be addressed during verification of a recycling facility’s compliance with the "responsible" standard.	23
3d	Responsible End Markets	Take reduction of carbon emissions into account in the "responsible" standard	DEQ is not proposing changes in response to this comment. Carbon emissions from a recycling facility could be addressed through compliance with all relevant regulations and permit conditions. If a jurisdiction has carbon emission	23

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			standards the facility would need to be in compliance in order to meet the 'responsible' standard. The proposed standard in rule for "responsible" does not require goal setting or carbon emission reduction goals, but this could be addressed in a future rulemaking.	
3d	Responsible End Markets	The "end market" definition for plastic for food and beverage applications extends beyond the reach of recycling, and into manufacturing	DEQ is not proposing changes in response to this comment. In absence of a common understanding of what a recycling "end market" is, DEQ defined "end market" in a way that is most aligned with statute. In examining the question of where to situate the "end market" within material-specific supply chains, DEQ was guided by the statutory definition of "responsible end market," which points toward environmental, public health, and worker health and safety impacts as the overriding concerns.	40
3d	Responsible End Markets	The "end market" for additional plastics supply chains should be designated as the producer of the next product (i.e., for all plastics besides PET and PP resins and HDPE bottles)	DEQ is not proposing changes in response to this comment because there was not sufficient information provided to evaluate health risks associated with the production phase of the specific resins in question. The requirements in the draft rules were informed by the known health risks associated with using recycled content in packaging for food and beverage packaging and children's products.	13, 16
3d	Responsible End Markets	The end market for paper should be the initial converter of paper into recycled feedstock	DEQ did not make changes in response to this comment because the draft rule language as written already describes the end market for most recycled paper supply chains as the facility that produces pulp and differentiates between the facilities where pulping does and does not occur.	13, 16
3d	Responsible End Markets	The four elements of the "responsible" standard are	Thank you for your comment.	42

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		appropriate to audit against to ensure that downstream communities are not burdened		
3d	Responsible End Markets	The minimum yield threshold will prohibit the creation of new markets because it limits "responsible" markets to those that recycle materials sold today rather than new innovations	<p>No changes were made in response to this comment because statute addresses these concerns. The Act redefines what is considered recyclable in Oregon by proposing materials for inclusion in the uniform statewide collection list and the PRO recycling acceptance list. The benefits of this approach include ensuring more equitable access to recycling throughout the state, more clarity about what is and is not accepted for recycling, and more assurance that recycling is generating environmental benefits. Before being included on an acceptance list, materials must be evaluated against the statutory criteria in ORS 459A.914(3), and all supply chains for materials collected for recycling in Oregon must meet the "responsible" standard.</p> <p>These acceptance lists can be updated. Statute provides multiple pathways for adding materials through future rulemakings or amendments to the PRO program plans. Additionally, another pathway is provided in ORS 459A.914(6), allowing commingled recycling processing facilities to collect materials not included on the uniform statewide collection list in the context of a trial research program of limited duration and geographic scope. Finally, the yield standard (as part of the responsible end market definition) does not apply to any material not designated in ORS 459A.869(7), thereby allowing for additional innovation for materials lacking responsible end markets.</p>	23

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3d	Responsible End Markets	The rule must provide clear legal authority to the PRO to conduct the activities under this section	DEQ is not proposing changes in response to this comment. The responsible end market rules require PROs to undertake a practicable action as defined in proposed rule OAR 340-090-0670(5) when a downstream entity handling materials collected for recycling does not meet the "responsible" standard. Requirements in rule provide the PROs the authority and obligations to implement any of the listed practicable actions proposed rule OAR-340-090-0670(5)(a). If the PRO lacks legal authority to implement an action, the action would not be practicable and the Act cannot require a PRO to violate another law.	27, 41
3d	Responsible End Markets	The rule should allow DEQ to track and enforce responsibility of markets through regular inspections of domestic and international markets and published information about where materials go and what they become	<p>DEQ is not proposing changes in response to this comment because the draft rules already address this proposal. The responsible end market proposed rules at OAR-340-090-0670 and confidentiality rules at OAR-340-090-0710 should deliver periodic, detailed verifications of all entities receiving waste collected for recycling in Oregon and allow DEQ to publish non-proprietary information regarding where Oregon's waste is going. Under proposed rule OAR- 340-090-0670(4), DEQ will have authority to conduct its own random bale tracking to verify the accuracy of the PROs' auditing. DEQ also has broad inspection and enforcement authority under ORS 459A.962.</p> <p>Per these rules, entities receiving Oregon's waste, irrespective of location, will be held to the same "responsible" standard. In an interconnected world, irresponsible recycling can cause negative impacts to Oregon's communities, even when the disposition of materials is taking place at an overseas location.</p>	38
3d	Responsible End Markets	The rules should take into account recycling	DEQ is not proposing changes in response to this comment because this comment is outside the scope of this	23

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		pathways that are economically disfavored by commodity market factors	rulemaking and is already addressed in statute (ORS 459A.923) through the processor commodity risk fee. This fee requires Producer Responsibility Organizations to subsidize the operating costs of commingled recycling processing facilities, providing stability through fluctuating commodity values. Additionally, ORS 459A.896(2)(b) requires PROs to consider factors other than commodity prices, specifically, environmental outcomes.	
3d	Responsible End Markets	Upgrades at end markets should not be included among practicable actions	<p>DEQ is not proposing changes in response to this comment. Addressing the environmental and public health impacts of irresponsible end markets was a central goal for the Recycling Modernization Act. DEQ has determined that producer funding should be used to improve existing markets and that this corresponds with the legislative intent of the Act.</p> <p>Note that (5)(a)(A) applies to end markets, not commingled recycling processing facilities. The CRPFs are regulated under the Recycling Modernization Act, end markets are not.</p>	4
3d	Responsible End Markets	Use a tiered approach to yield to require materials to flow to markets with the highest yield and push continual improvement rather than set a broad target for marginal performance	<p>DEQ is not proposing changes in response to this comment. DEQ notes the commenter's interest in structuring the "responsible" standard in a way that would encourage continual improvement.</p> <p>The "responsible" standard as described at proposed rule OAR-340-090-0670(2) is a yes or no -- a market will need to meet all the requirements to be considered "responsible," and if any requirement is not met then it does not meet the standard. While the standard in rule is a yes/no rather than a tiered approach, per proposed rule OAR-340-090-0670(3)(a)(B) a third-</p>	42

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			<p>party certification could be approved in rule for use in fulfilling this obligation, and that certification could have tiered levels of performance in its standard. In the absence of a third-party certification being approved for use in rule, a PRO could also propose in its program plan to use a tiered approach to verifying markets against the "responsible" standard.</p> <p>Please see DEQ's response to a related comment on yield from the same commenter for additional detail and context.</p>	
3d	Responsible End Markets	With respect to a market's willingness to be monitored, clarify the standard for maintaining records, collecting samples for specific pollutants, etc.	DEQ is not proposing changes to the draft rules in response to this comment. The PRO Program Plan evaluation <a href="#">internal management directive</a> provides guidance on approaches the PRO can take to verify environmental compliance with specific environmental, health and safety regulations. DEQ will review and approve the approach if it is found to fulfill relevant statute and rule requirements.	31
3d	Responsible End Markets	Clarify how the PRO is expected to verify/control that supply chain entities are compliant with local laws and requirements	DEQ is not proposing changes in response to this comment. Per pages 54-55 of the PRO Program Plan evaluation <a href="#">internal management directive</a> , PROs will describe their approach to verifying compliance in their program plans for DEQ review and approval. For example, a PRO's verification methodology could include a full legal compliance audit, something that some existing certifications operating in the waste sector include (for example, ISO 14001 entails a full compliance audit with respect to environmental regulations, as does ISO 45001 with respect to occupational health and safety regulations). Such certifications generally accredit certification bodies to apply their standards to individual	31

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			<p>facilities, and the certification bodies may operate offices at worldwide locations, meaning that local staff understanding local requirements conduct the certification audits.</p> <p>PROs could take such existing standards and their protocols into account in developing their verification programs and explaining their approach to verifying compliance.</p>	
3e	PRO Coordination	DEQ should not assign interim tasks to individual PROs	DEQ did not make any changes in response to this comment. DEQ is proposing interim coordination and tasks based on the recent establishment of a multi-PRO packaging EPR program in Ontario, Canada. Establishing the PRO-led Ontario program took considerable time and DEQ's proposed rules account for potential delays through temporary, interim coordination by DEQ. During this time DEQ will assign certain interim coordination tasks to individual PRO(s). The draft rules clarify DEQ's intent that long term PRO-led coordination will replace the interim coordination upon DEQ approval of a coordination plan.	4
3e	PRO Coordination	Only the coordination body should process local government reimbursements	DEQ did not make any changes in response to this comment. DEQ anticipates that the long-term, PRO-led coordination body will process the reimbursements to local governments under ORS 459A.890. ORS 459A.887(2)(e) requires PRO(s) to produce and make public a complete accounting of payments requested and paid under ORS 459A.890.	4
3e	PRO Coordination	Require harmonized frequency and quantity of bale tracking	DEQ did not make any changes in response to this comment. DEQ agrees that if multiple PRO program plans are approved, coordination will be needed to meet the obligation that materials collected for recycling go to responsible end markets. This is	4



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			reflected by the inclusion of responsible end markets among the topics that must be adequately covered in a coordination plan which DEQ must approve. See proposed rule 340-090-0680(2)(c)(F).	
3e	PRO Coordination	Require interim coordinator to solicit and review and approve a standard material categorization submitted by PROs	DEQ did not make any changes in response to this comment because advance coordination and proposals from the PROs are already welcome during the interim coordination process. Per OAR 340-090-0680(1)(d)(B), the interim coordinator (a contractor of DEQ) will determine a standard product categorization to be used across PROs during the interim coordination period for the purpose of fee setting. This will enable the calculation of interim modified market share upon the PROs submitting interim market share data to the department on August 1, 2025. This and other tasks of the interim coordinator will be undertaken in close consultation with PROs, and PROs are welcome to coordinate and submit a standard material categorization for the interim coordinator's consideration.	28
3e	PRO Coordination	Require the use of common forms for end market auditing	<p>DEQ did not make any changes in response to this comment. DEQ agrees that coordination among PROs, if multiple PRO program plans are approved, will be needed to deliver on the obligation to ensure that materials collected for recycling go to responsible end markets. This is reflected by the inclusion of responsible end markets among the topics that must be adequately covered in a coordination plan for DEQ to approve it.</p> <p>If a coordination plan assigns verification and auditing of end markets to a single PRO, a common protocol form would not be necessary.</p>	4

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3f	PRO Fees	50% reduction of the 2025 annual administration fee would be more logical given that the programs will operate for six months of 2025 and would better match the timing of PROs recouping their start-up costs from producer members	DEQ did not make a change in response this comment because it would be unaffordable and would not allow for the timely repayment of DEQ's start-up costs incurred in 2021-2025. A \$2 million annual administration fee for 2025 would be insufficient both for recouping start-up costs and for funding the ongoing needs of the program. The minimum amount needed to both recoup start-up costs and to fund the ongoing needs of the program is what is proposed in rule OAR-340-090-0690(2).	28
3f	PRO Fees	DEQ should allow the PROs to pay the annual administration fee in quarterly installments	DEQ did not make a change in response this comment. A single yearly payment of the annual administration fee to DEQ rather than quarterly invoicing and payments will limit the administrative burden to DEQ and aligns best with statute, which sets in ORS 459A.938(2) a single invoicing date for the upcoming year's fee of September 1.	28
3f	PRO Fees	DEQ should reduce the annual administration amount charged within a given year (rather than in a subsequent year) if it determines that the amount originally invoiced is not required	DEQ is not proposing changes in response to this comment. DEQ will need to maintain contingency funds to ensure its ability to provide service in the event of unexpected circumstances, which will require carrying funds over from one year to the next. Per the draft rule language at OAR-340-090-0690(2)(b), if DEQ builds up a balance in a given year it can reduce the next fee charged to balance the budget. This approach, combined with a rule language change made in response to another comment that will require DEQ to report current and projected expenditures and revenue annually, will make fund balances transparent, and that will provide interested parties with adequate information to advocate against unnecessary fee collection.	28

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3f	PRO Fees	PRO should be allowed to petition DEQ to adjust the annual administration fee, as it is the highest proposed in the nation	<p>DEQ is not proposing changes in response to this comment. DEQ will carefully monitor expenses and reduce fees when a balance accrues.</p> <p>Regarding the amount of the proposed fee and how it compares to other jurisdictions, administration fees have yet to be determined in all of the states currently implementing packaging EPR. Individual state laws differ considerably in terms of the division of responsibilities among the PRO and the state regulatory agency. Therefore, comparisons among the states' fees have limited applicability.</p>	27, 41, 46
3f	PRO Fees	PROs should pay first annual fee in proportion to preliminary market share, not equal shares	DEQ did not make changes in response to this comment because comprehensive market share data will not be available until after the July 1, 2025, implementation start date. PRO program plans are not required to include the comprehensive data necessary for calculation of modified market share. Producers have until July 1, 2025, to join a PRO, and the first report of market share data is due to DEQ August 1, 2025. As a result, the rules propose an equal division of the year 1 annual administration fee among PROs, with their accounts reconciled as soon as interim modified market share has been calculated.	4
3f	PRO Fees	DEQ should require that PROs charge minimum fees to producers to prevent material cross-subsidization and encourage use of less environmentally impactful materials	DEQ did not make any changes in response to this comment. DEQ does not expect that capping or otherwise mandating minimization of PRO fees would prevent material cross-subsidization or encourage the use of less environmentally impactful materials. PROs must indicate in their program plans how they will design their fee structure to prevent material cross-subsidization and how they will incentivize producer action to reduce environmental and human health impacts of their products through eco-modulated fees. While merely minimizing fees would not likely	21

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			achieve these outcomes, the allowance for multiple PROs to operate in Oregon's system may result in lower fees due to PRO competition for members.	
3f	PRO Fees	The differential in fees between recyclables and non-recyclables should be large enough to incentivize design for recycling	DEQ did not make any changes in response to this comment. DEQ considers the requirement per ORS 459A.884(3)(a) that average base fee rates for non-recyclable covered products charged by PROs to member producers be higher than the average rates for covered products that are accepted for recycling to be an incentive for recyclability and does not intend to limit the PROs' flexibility with respect to the size of the differential between the two groups of products. Additionally, separate DEQ research has found that the attribute of "recyclability" does not consistently correlate with reductions in environmental impacts. "Design for recycling" is not the same as "design for the environment", and both the enabling language of the Recycling Modernization Act and the 2050 Vision for Materials Management, Oregon's policy framework for materials and waste management, prioritize broader environmental considerations.	38
3f	PRO Fees	The use of post-industrial recovered material in manufacturing covered products should be incentivized by graduated fees	DEQ did not make any changes in response to this comment because graduated fees were outside the scope of this rulemaking. ORS 459A.884(4) describes the criteria that a PRO must consider when establishing a graduated fee structure but does not prohibit a PRO from also considering other criteria.	27

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3f	PRO Fees	Calculate PRO fees based on data in first draft plans	DEQ did not make any changes in response to this comment. DEQ proposes provisional invoicing because the timing of the PRO plan review and approval does not align with the Sept. 1 statutory (ORS 459A.938(2)) deadline requiring DEQ to issue an invoice for the following year's fee. DEQ intends to issue an updated invoice after a PRO(s) program plan is approved prior to the RMA implementation start date.	4
3g	Market Share	Allow producers to use estimates of product sold into a state	This is already included in the draft rule language, (OAR-340-090-0700(1)(d)), which allows producers to report estimated data for the amount of covered product sold in or into the state. Estimates must be accompanied by a description of the methodology used to generate the estimate. If better market data becomes available that demonstrates the estimates were not accurate, the producer must report corrections to the estimated data to the producer responsibility organization before the next annual reporting deadline.	21
3g	Market Share	DEQ should develop, in consultation with prospective PROs, principles and frameworks for allocating costs among multiple PROs and use them as the basis for hiring a contractor to derive material-specific unit factors	DEQ did not make changes in response to this comment because it falls outside the scope of the rulemaking. DEQ will consider how to develop principles and frameworks for allocating costs among multiple PROs in consultation with prospective PROs during the implementation phase of the project.	28
3g	Market Share	DEQ should invite all prospective PROs to	DEQ did not make changes in response to this comment because it falls outside the scope of the rulemaking. However, DEQ notes the	28

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		contribute to the development of a terms of reference for the contractor that will produce the index of material-specific unit factors	suggestion to solicit feedback from PROs on the terms of reference for a contractor that will develop the material-specific index of unit factors.	
3g	Market Share	Hold back the modified market share rules to the next rulemaking and conduct modeling to inform the rule	DEQ did not make changes in response to this comment because concerns about the derivation of the material-specific unit factors used to calculate modified market share can be addressed during implementation.	28
3g	Market Share	Issue guidance on estimation best practices	DEQ did not make changes in response to this comment because it falls outside the scope of the rulemaking. However, DEQ notes the interest in receiving guidance on best practices for producers to estimate their volumes covered product. DEQ recommends " <a href="#">The Guidebook for Stewards</a> ", published by PROs operating in the Canadian provincial Extended Producer Responsibility programs.	4
3g	Market Share	Act should not disincentivize industry's location of distribution centers within Oregon	DEQ did not make changes in response to this comment because this is already included in statute. ORS 459A.863(6)(b)(J) exempts "covered product" items that are not discarded within the state, such as items imported into distribution facilities located in Oregon and subsequently exported to other states.	21
3g	Market Share	The definition of "producer" for food serviceware is unclear because food serviceware is often sold into the state by distributors who lack an in-state presence	DEQ is not proposing changes in response to this comment because it is outside the scope of this rulemaking. The proposed rules for market share did not include any rules refining ORS 459A.866, which lays out how producers of covered products are to be determined, including producers of food serviceware per ORS 459A.866(3). A producer does not need to have a presence within Oregon	40

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			<p>to be designated the obligated producer for products sold in or into Oregon under ORS 459A.866 and required to pay fees to a PRO. ORS 459A.866(3) already obligates as the producer of food serviceware "the person that first sells the food serviceware in or into this state". In many cases that will be the distributor, and an out-of-state distributor should have knowledge to inform its estimate of how much covered product it distributes into Oregon.</p>	
3g	Market Share	<p>The material-specific unit factor will need to be made up of two components, one fixed and one fluctuating with market values</p>	<p>DEQ did not make changes in response to this comment because details of the methodology for deriving the material-specific unit factors used to calculate modified market share can be addressed during implementation rather than requiring greater detail in rule.</p> <p>The suggestion to have two components feed into the material-specific unit factors, one fixed and one fluctuating and linked to the market prices used to adjust the processor commodity risk fee, is noted for consideration during implementation.</p>	28
3g	Market Share	<p>The unit factor used in the modified market share calculation needs to take eco-modulation factors into account</p>	<p>DEQ is not proposing more detailed rules at this time on how the material-specific unit factors are to be derived. DEQ will contract with an independent organization during interim coordination to derive the index of material-specific unit factors to be used in calculating modified market share. DEQ will work with the contractor to ensure that the method used delivers a fair allocation of system costs among PROs and prevents materials from cross-subsidizing one another as stipulated in ORS 459A.884(1). As with other aspects of interim coordination, this work will be conducted with extensive engagement of prospective and approved PROs.</p>	28

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			The extent to which it is feasible and desirable to account for eco-modulation and life cycle costs in the index will be taken into consideration during implementation. DEQ notes that several of the factors listed in ORS 459A.884(4)(a)-(e) and required for consideration by a PRO in development of an eco-modulation formula apply at the scale of an individual product rather than the scale of a material, which would limit the extent to which these factors can be accounted for in an index of material values.	
3h	Proprietary Information	Define "confidential information" in rule 340-090-0710	DEQ is not proposing changes in response to this comment. DEQ is proposing to define "proprietary information" in rule because the term is referenced in multiple sections in statute without definition. The definition's intent is to clarify which types of information are exempt from disclosure and not subject to the balancing test under the Oregon Public Records Law (ORS 192.311 to 192.478).	13
3h	Proprietary Information	Develop procedures to ensure that any private entity that is sharing information with either the PRO or DEQ is aware that the Act applies	DEQ is not proposing changes in response to this comment. The proposed rule OAR 340-090-0710 partially addresses the commenter's suggested change by providing a definition for "proprietary information". The development of this rule has increased the awareness of interested parties with respect to the approach to confidentiality in the Act.  The commenter's support for DEQ raising awareness about the law's approach to confidentiality is noted for consideration during implementation.	18
3h	Proprietary Information	Make explicit that the DEQ decision to disclose proprietary information is	DEQ is not proposing changes in response to this comment. DEQ's process for determining whether proprietary information can be disclosed publicly is separate from the requirement that PROs develop a	13, 16



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		subject to the PRO dispute resolution process	dispute resolution mechanism for resolving disputes involving local governments, local government service providers, and commingled recycling processing facilities.	
3h	Proprietary Information	Rules should indicate how an individual producer may specify, at the time it provides market share information to its PRO, that its information is proprietary or otherwise not subject to disclosure	<p>DEQ is not proposing changes in response to this comment. Proposed rule OAR-340-090-0710(2) indicates how a claim that information is proprietary or otherwise confidential should be made, and this rule is applicable to producers wishing to apply a claim of confidentiality to data submitted to DEQ. Some types of information are explicitly protected in the Act from public disclosure by DEQ, including market share data per ORS 459A.887(3)(a) and five classes of proprietary information. If a public records request is made for other types of information claimed as confidential (i.e., for information besides that which is explicitly protected from public disclosure in the Act), the balancing test under the Oregon Public Records Law would be applied in making a determination as to whether or not the information would be disclosed.</p> <p>The commenter's concern appears to lie with the potential for a PRO to disclose the producer's information rather than for DEQ to disclose the information when the PRO submits the producer's data to the department, as will occur in the case of market share data. Aside from where the law already protects producers from disclosure (such as in ORS 459A.887(3)(a)), DEQ is not proposing rules to allow producers to further shield information from disclosure.</p> <p>PRO membership agreements with producers will include language restricting the release of confidential producer information by the PRO, and</p>	41

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			that this mutual agreement among PROs and producers will be sufficient to address the commenter's concerns.	
3h	Proprietary Information	Specify that rules about confidentiality claims (340-090-0710(2)) apply to both proprietary and confidential information	DEQ is not proposing changes in response to this comment. DEQ finds that the current draft rule language captures the commenter's concern in its use of the term "otherwise", as proprietary information is a subset of confidential information.	13, 16
3h	Proprietary Information	Specify that the information cited at 340-090-0710(4)(a)-(d) are neither proprietary nor confidential	DEQ is not proposing changes in response to this comment because it is outside the intent of defining "proprietary information".	13, 16
3i	Program Calendar	Do not allow new PROs to enter into the system midstream in a program plan period	DEQ is not proposing changes in response to this comment. Program plan periods from the second period onward will last for a five-year period. Under normal circumstances, DEQ does not expect to approve a new PRO to begin operations midway through a program plan period. If this should happen, DEQ intends to allow a prospective new PRO to submit plans mid-period after receiving advance DEQ approval.	28
3h	Proprietary Information	Require program plan submissions from prospective new PROs one year (rather than 180 days) before the current program plan period expires	DEQ did not make any changes in response to this comment because streamlining the timing of renewal program plan submissions from existing approved PROs with submissions from prospective new PROs increases administrative efficiency for DEQ. Administrative tasks required under ORS 459A.878(2) include DEQ reviewing the draft program plan, consulting the Recycling Council, and facilitating public comment as required.	28
4a	Local Governme	Concerns about reimbursement	DEQ is not proposing changes in response to this comment.	18, 28, 41, 20, 46, 42

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	nt Transportation Costs Reimbursement	for transportation costs.	<p>The law and draft rule OAR 340-090-0770, address the reimbursement of costs associated with transporting covered material 50 miles or greater in distance from a recycling reload facility or recycling depot to a responsible end market or permitted commingled recycling processing facility. Costs associated with the on-route collection of recyclable material from single-family residences, multi-family properties and commercial/institutional entities are not covered under the RMA.</p> <p>Proposed draft rule OAR 340-090-0780, requires the PRO(s) to work with interested parties (local governments, service providers, etc.) to create and propose methods for calculating the costs associated with the transportation cost reimbursement. The method will be described in the PRO's program plan.</p> <p>The proposed rule does not prohibit a PRO from considering existing trucking and hauling routes and statute does not provide DEQ or the PRO authority to cancel or amend existing contracts. The draft rule OAR 340-090-0780(1)(c) requires the PRO to offer an option that allows local governments and service providers to transfer some or all transportation responsibilities to the PRO or a coordination body and notes that such a transfer must be voluntarily performed, and in agreement with the local government or service provider and the PRO.</p>	
4a	Local Government Transportation Costs Reimbursement	Method for determining payment of transportation costs	DEQ is not proposing changes in response to this comment. OAR 340-090-0780(1)(d) describes the process for establishing a method to determine payment of transportation costs. The process requires the producer responsibility organization(s) to share a draft approach and seek	41

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			<p>feedback from local governments and local government service providers. Many factors may be considered as the PRO looks establish the method, such as how to address baled versus loose material coming from depots and reload facilities. The PRO(s) seeking feedback from local governments and service providers should help ensure the transportation cost reimbursement calculation method includes all the necessary cost components.</p> <p>The transportation costs reimbursement is a responsibility of the PRO, not DEQ.</p> <p>DEQ has conducted numerous evaluations of the impact of long-distance transportation in the recycling process and finds that the negative environmental consequences of transportation are generally outweighed by the benefits of displacing virgin feedstock. In a few cases, transportation can have relatively significant impacts (see for example recent DEQ evaluations involving glass and undensified expanded polystyrene, both located at <a href="#">this webpage</a>.) but such cases are typically the exception and not the norm.</p>	
4a	Local Government Transportation Costs Reimbursement	Require itemization and transparency of these costs	DEQ is not proposing changes in response to this comment. The PRO has the discretion to establish accounting and invoicing protocols for reimbursing eligible costs. Separately, ORS 459A.887(2)(e) requires the PRO to annually provide a "complete accounting" of payments requested by local governments and their service providers and paid by PROs under ORS 459A.890.	4
4c	Expansion of Service	Prioritization of LGs associated with expansion of service via	DEQ is not proposing any changes in response to this comment. Prioritization of implementation associated with local governments interested in establishment or	42

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		needs assessment	<p>expansion of collection services is laid out under OAR 340-090-0790(1)(b).</p> <p>The PRO will be motivated to ensure that expenditures are optimized and cost-effective, and the law already allows PROs to work with funding recipients under ORS 459A.890(5) to achieve quality and efficient outcomes. However, the law does not allow a PRO to deny funding to a community simply because its requested service expansion is less optimal or optimized when compared against others. Due to local conditions, some communities will have programs that are more expensive than others. It is unclear if the proposal that DEQ and PRO "could prioritize local government projects" is meant to suggest that projects with higher cost per ton or cost per household served might not be funded, but statute does not allow for that outcome.</p>	
4c	Expansion of Service	Use of expansion of service funding	<p>DEQ is not proposing changes in response to this comment. Regarding providing periodic and regular information on the use of funds, OAR 340-090-0810(1)(a):</p> <p>(a) A producer responsibility organization must include in its program plan the following:</p> <p>(A) A method for determining advanced funding or reimbursement amounts under ORS 459A.890(5).</p> <p>(B) A description of the process a local government, a local government service provider or other persons authorized by a local government to receive payment must follow to invoice the producer responsibility organization for reimbursement of costs or advanced funding. The information provided may include sample forms for reimbursement or advanced funding requests.</p> <p>If the PRO wants to receive periodic</p>	41

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			and regular information on how local governments or local governments service providers use funding related to activities listed under ORS 459A.890, such as funding provided toward establishment or expansion of recycling services or generator facing contamination reduction efforts, the PRO can note that within its program plan to DEQ. Also, ORS 459A.890(11)(a) already provides DEQ the authority to "review or audit the cost accounting and reimbursement request records of a producer responsibility organization, a local government or the local government's service provider that receives payment under this section."	
4d	Local Government Compensation and Invoicing	DEQ should prepare an accounting style ledger listing all fees, revenue, expenses, etc., along with a "bottom line" figure	<p>DEQ is not proposing changes in response to this comment. Though it is not stated in the Notice Proposed Rules, when the PRO submits annual reports to DEQ, the PRO must also include the following information, as noted under ORS 459A.887(2)(v)-(w):</p> <p>(v) A report by an independent certified public accountant, retained by the producer responsibility organization at the organization's expense, on the accountant's audit of the organization's financial statements; and</p> <p>(w) The results of any nonfinancial audits or assessments measuring performance or outcomes.</p> <p>The above information will always be included with the publicly-available annual report.</p>	18
5	Other	Require landfill reclamation	DEQ is not proposing changes in response to this comment. Mandates for landfill reclamation are outside the scope of the RMA or this rulemaking.	10
5	Other	Suggestion for future	Thank you for this suggestion. DEQ published a plain language guide with the draft rule language that was	18

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		rulemaking process	published in advance of the sixth rulemaking advisory committee meeting convened on April 11, 2023. The complete plain language guide was included with the rulemaking notice. DEQ will look into the possibility of providing drafts of the guide earlier in the rulemaking process.	
5	Other	Prioritize equity and diversity	Thank you for your comment.	38
5	Other	Phase out use of plastics made from petrochemicals	DEQ did not propose changes in response to this comment. DEQ and the Environmental Quality Commission do not have the authority to ban or phase out plastics. However, the Act provides several mechanisms which, should reduce the use of plastics and other materials used for packaging.	10
5	Other	Provide for recycling of more types of plastics	DEQ did not propose changes in response to this comment. DEQ determined that ORS 459A.926 requires the producer responsibility organization(s) to achieve progressively increasing rates of plastics recycling (25% by 2028, 50% by 2040). The recycling acceptance designations contained in this current rulemaking are a first step towards achieving those goals. The materials currently recommended for inclusion in acceptance lists (proposed rule OAR 340-090-0630) are those that DEQ has evaluated against the criteria contained in ORS 459A.914(3) and which DEQ is currently comfortable recommending a recycling acceptance mandate. In some other cases, certain plastics are technically recyclable, but responsible end markets are not sufficiently stable, mature, available or viable (ORS 459A.914(3)(a)) or proven. PROs may make additional investments including recovery of additional types of plastics, in order to meet statutory goals.	1, 7

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5	Other	Put into rule system analysis of the degree to which residents and businesses are benefitting from PRO investments, including those made in processors	<p>DEQ did not make changes in response to this comment because assessment of the fiscal and equity impacts as part of the rulemaking process is limited to the rules themselves and does not encompass the impacts of the entire Act. As such, impacts of PRO investments in responsible end markets, PRO coordination, annual administration and program plan fees paid to DEQ, and local governments for service expansion were covered in the impact statements for this rulemaking. Impacts of PRO fees paid to commingled recycling processing facilities are not within the scope of this rulemaking, and will be addressed in the <a href="#">second rulemaking</a> currently in progress.</p> <p>DEQ has already taken into account the potential for PRO investments to reduce costs to system users and will continue to do so in future planning.</p> <p>DEQ does not have statutory authority to require the PRO (or any other party) to undertake a retrospective analysis of benefits to system users. DEQ will consider this request as a possible discretionary task in the future.</p>	38
5	Other	Packaging that cannot be recycled should be made more expensive.	DEQ did not propose changes in response to this comment. This is addressed in ORS 459A.884(3) which requires higher producer fees for products not accepted on the materials acceptance lists than for the products that are accepted	3
5	Other	Packaging that cannot be recycled should be prohibited.	DEQ did not propose changes in response to this comment. DEQ does not have statutory authority to restrict the sale of packaging based on recycling difficulty. Further, doing so has the potential of resulting in unintended and adverse environmental consequences, since recyclability does not correlate consistently with lower environmental impacts when	3, 10



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			comparing different packaging options that can perform the same function. Please see this <a href="#">2018 DEQ research report</a> :	
5	Other	Clarify the fiscal impacts on ratepayers	DEQ clarified the description in the fiscal impact statement that there may be impacts to ratepayers. There are numerous factors outside of the rulemaking's scope that inform rates in each community.	18, 13
5	Other	Plain language guide should be released earlier in the rulemaking	Thank you for your suggestion regarding DEQ's process. DEQ will examine whether this is possible for the second rulemaking.	18
5	Other	Producer administrative costs of compliance should be built into the fiscal impact statement	DEQ does not propose changes to the fiscal impact statement in response to this comment because the referenced costs are required in statute and are outside the scope of this rulemaking.	31