

Rulemaking Advisory Committee Meeting #8

Plastic Pollution and Recycling Modernization Act

April 16, 2024
Zoom Meeting

Agenda

Time	Topic
10 a.m.	Welcome, Meeting Overview
10:05 a.m.	Introductions: DEQ Staff and RAC Members
10:10 a.m.	Updates from previous meetings
10:35 a.m.	Rule Concept Presentation and Discussion: <ul style="list-style-type: none">• Subscription services for materials on the PRO Acceptance List
10:55 a.m.	Break
11 a.m.	Presentation and Discussion: Racial Equity Impact Statement
11:15 a.m.	Presentation and Discussion: Fiscal Impact Statement
11:45 a.m.	Public Input Period
12 p.m.	Meeting Adjourns

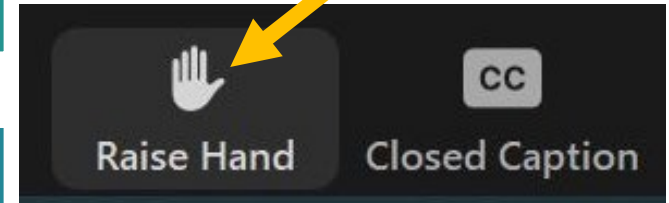
Meeting Tips

Join audio either by phone or computer, not both

For panelist discussion and comments, use the raise hand button to get in the queue; if by phone press *9

This meeting is being recorded

For Zoom technical issues email:
stephanie.caldera@deq.oregon.gov



Meeting agreements

- Listen and treat everyone with respect
- Allow one person to speak at a time
 - Please raise your hand
- Move around and take care of yourself as needed
- Share constructive feedback on rule concepts



Introductions: DEQ Staff



Roxy Nayar



Peter Canepa



Justin Gast



Nicole Portley



Arianne Sperry

Introductions: Committee members

Name	Affiliation	Representing
Aimee Thompson	Thompson Sanitary Service	Service Provider
Doug Mander	Circular Action Alliance	Producer Responsibility Organization
Greg Ryan	Pioneer Recycling	Commingled Recycling Processing Facility
Katy Nesbitt	Wallowa County	Local Government
Kristin Leichner	Pride Disposal	Service Provider
Marcel Howard	GAIA	Environmental
Maria Gabriela Buamscha	Lanin Iman Consulting	Community

Introductions: Committee members

Name	Affiliation	Representing
Neil Menezes	General Mills	Producer
Rick Paul	Rim Rock Recycling	Community
Chris Drier	Waste Management	Commingled Recycling Processing Facility
Sydney Harris	Upstream	Environmental
Tracey Reed	Rogue Basin Partnership	Community
Warren Johnson	Metro	Local Government
Will Posegate	Garten Services Inc.	Commingled Recycling Processing Facility

Update: Average Commodity Value Weighting Factors

PCRFR – Average commodity value

ACV will be calculated by DEQ monthly and will be the sum of weighting factors multiplied by market prices for each of nine material categories:

Material	Percentage makeup of the average inbound ton
Cardboard	49.1%
Other Paper Fiber	32.4%
PET	1.0%
HDPE, Natural	0.7%
HDPE, Color	1.0%
Mixed Plastic	0.6%
Tin/Steel Cans	1.4%
Aluminum	0.8%
Other Materials (including contamination)	12.9%



Update: Average Commodity Value Weighting Factors

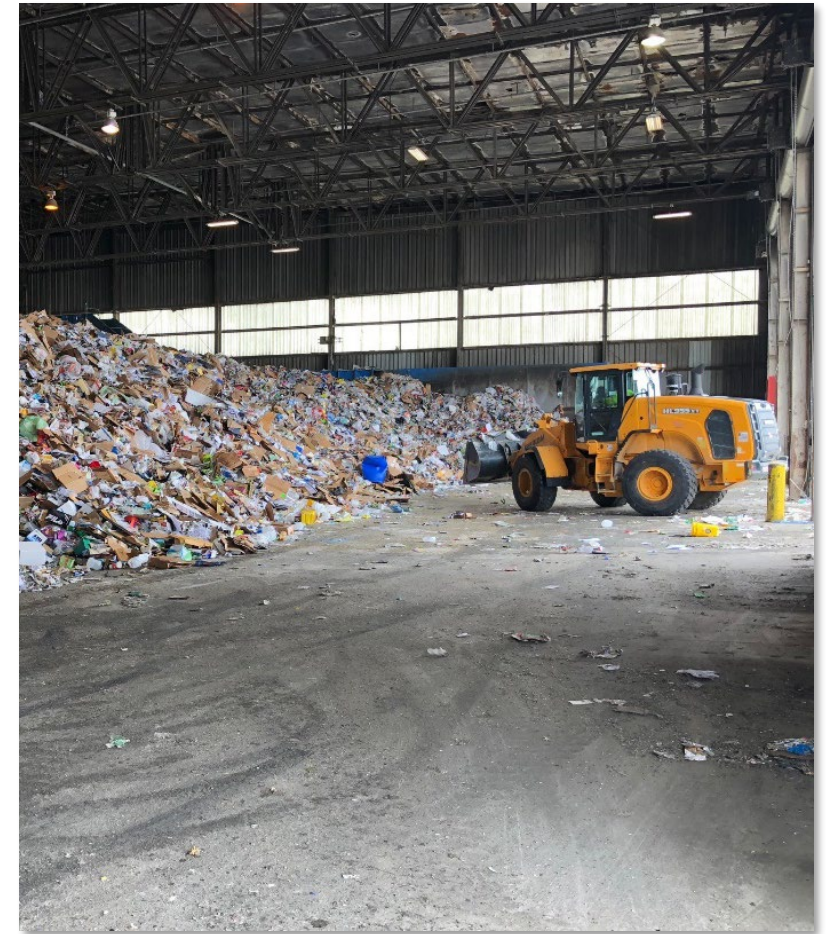
- The system on July 1, 2025 will recognize the updated average weighting factor percentages presented on April 3rd.
- Material disposition reporting from the PROs and CRPFs will be provided to DEQ no later than 45 days after the end of each calendar quarter.
 - 45 days after end of calendar quarter (day “X”)



Update: Average Commodity Value Weighting Factors

Steps to making factors variable

1. On day “X”+46, DEQ will take disposition data reported for the prior quarter and cross-walk it into the categories established in the CRPF fees report.
2. If needed, DEQ will do the same for any corrections to prior quarters reported during the quarter ending on day “X”.



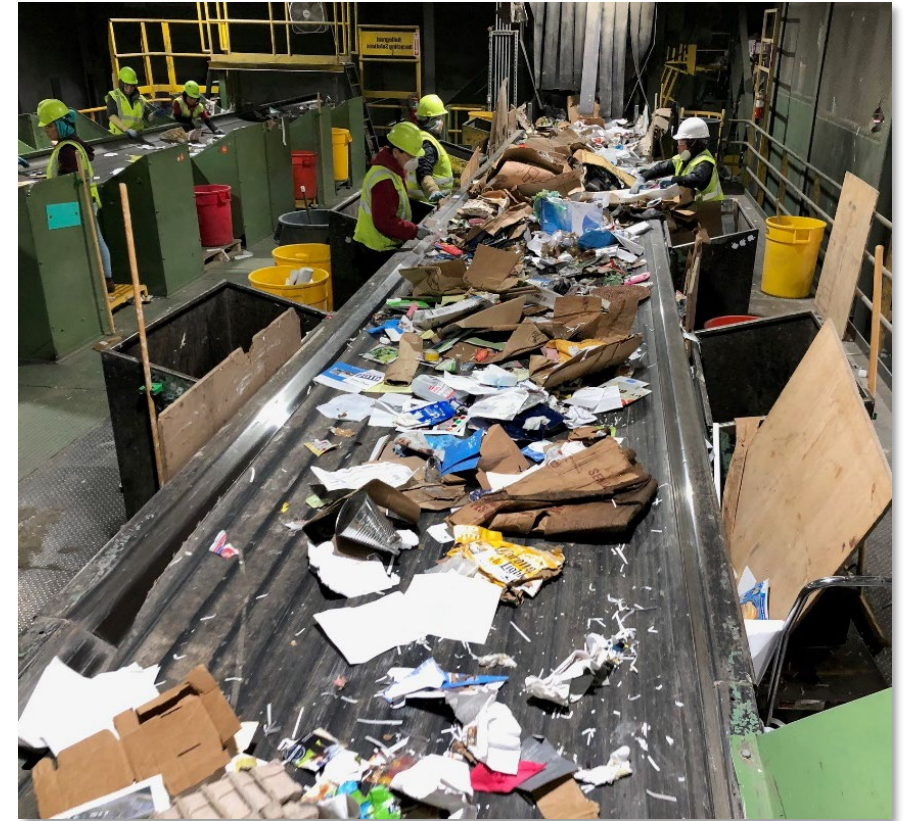
Update: Average Commodity Value Weighting Factors

3. Add tonnages for each ACV material category (across multiple facilities) together to generate the total for each material category.
4. Add tonnages for all ACV material categories (across multiple facilities) (from step 3) together for a grand total of all materials.
5. Divide results of step 3 by results of step 4 for a compositional value for each material (statewide).



Update: Average Commodity Value Weighting Factors

6. For each material, multiply the average weighting factor (from step 5) by the source market price (i.e., published scrap price) for that particular commodity. This results in the weighted average market price per material type.
7. Add up the weighted average price per ton for each material type to generate the total weighted ACV per ton.
8. Multiply the weighted ACV per ton by 7.19% to obtain the Oregon-specific amount.



Update: Average Commodity Value Weighting Factors



Questions?



Additional updates

- Waste Prevention and Reuse Fee
- Multifamily Recycling Enclosures
- Local Government Compensation for Contamination Reduction Programming



Rule Concept: Subscription service for PRO materials



Rule Concept: Subscription service for PRO materials

Proposal: Clarify that materials on PRO List are not subject to limitation on amount charged, though PRO may not charge for collection.

- RMA changed “recyclable materials” definition, making materials on PRO list subject to limitation on amount charged
- Change has potential implications for services that charge additional fee for collection of PRO materials

Rule Concept: Subscription service for PRO materials



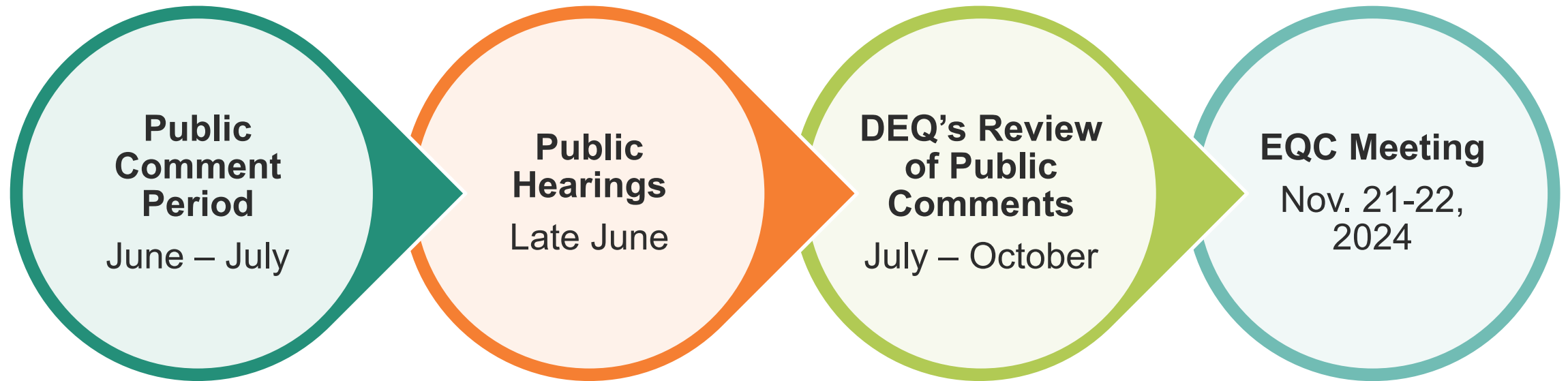
Questions?



Break



Rulemaking Timeline



Recycling Processor Obligations	Commingled Recycling Processing Facility Permitting Program	Certification Program for Out-of-State Commingled Recycling Processing Facilities	Living Wages and Supportive Benefits	Commingled Recycling Processing Facility Permit Fees	Limited-Sort Facilities, Commingled Materials and Reload Facilities	Responsible End Market Obligations for CRPFs		
Covered Products	Clarifications to the Definition of Covered Products		Covered Product Exemptions		Exemptions for Materials Collected Outside of the Opportunity to Recycle			
PRO Obligations	Processor Commodity Risk Fee	Contamination Management Fee	Waste Prevention and Reuse Fee	Amendments to Responsible End Market Obligation Rules	Local Gov't Compensation for Evaluation of Contamination	Local Gov't Compensation for Contamination Reduction Programming	PRO 2024 Annual Reporting	Amendments to Market Share Rules
Producer Obligations	Clarifications to Producer Definitions		Associated Producers		Producer Pre-Registration			
LG Obligations	Contamination Reduction Programming Elements			Multifamily Recycling Enclosures				
Life Cycle Evaluation of covered products	Scope (and Definitions)	Project Report Requirements		Product Category Rules		Additional Environmental and Human Health Information		
Other	Enforcement		Subscription service for materials on PRO Recycling Acceptance List		Housekeeping Rule Amendments			

Racial Equity Impact Statement

- State agencies are required to provide a statement **identifying how adoption, amendment, or repeal of proposed rules will affect racial equity in Oregon**
 - “Racial equity” is not defined in the guiding legislation
 - The ordinary meaning of “racial equity” is treating people of all races fairly, justly and without bias.
- The Rulemaking Advisory Committee must review this statement

Questions for the RAC

- 1 What persons and groups are subject to the rules?
- 2 What racial groups are likely to be most concerned and affected by the issues addressed in the rule?
- 3 Is there any data that helps to determine racial equity impacts?
- 4 What unintended adverse consequences might the rules have on racial equity?

Racial Equity Statement: Positive Impacts

DEQ anticipates the following proposed rules will have positive impacts on racial equity:

- Living Wages and Supportive Benefits
- Contamination Reduction Programming Elements

Racial Equity Statement: Negative Impacts

No negative impacts have been identified.

Discussion

What persons and groups are subject to the rules?

What racial groups are likely to be most concerned and affected by the issues addressed in the rule?

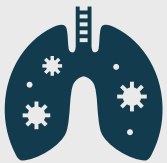
Is there any data that helps to determine racial equity impacts?

What unintended adverse consequences might the rules have on racial equity?

Environmental Justice Considerations



Above-average exposure and health issues related to diesel particulate and PM2.5



Over 80% of adults report asthma near 8 of 10 Oregon facilities



70% of neighbors are low-income for 8 of 10 Oregon facilities; above 90% low-income for 5

Fiscal Impact Statement

DEQ's role:

- DEQ must provide notice of fiscal impact for proposed rules
 - Impacts can be both positive and/or negative



FIS: Required Elements

- Analysis of significant impacts of the proposed rule on:
 - Large businesses
 - Small businesses
 - State agencies
 - Local government
 - Public
- Possible mitigation measures for impacts on small businesses
- Impacts on housing costs

FIS: The RAC's Role

- Help DEQ consider the **fiscal impacts of the proposed rules**
 - Is there a fiscal impact for certain entities, and if so, what is the extent of the impact?
 - Is there a potentially significant adverse impact on small businesses, and if so, how can it be mitigated?
- DEQ will consider this input as we review and update the initial draft fiscal statement for the rulemaking notice packet

Recycling processor obligations



Fiscal Impacts of Recycling Processor Obligations

Rules in this Section

- Commingled Recycling Processing Facility Permit Program
- Certification Program for Out-of-State CRPFs
- Living Wages and Supportive Benefits
- Limited Sort Facilities
- Responsible End Market Obligations for CRPFs

Fees Included Among Processor Obligation Rules

Fee	Amount
CRPF Permit Application Fee	\$100 - \$500 depending on anticipated tons received annually
CRPF Annual Compliance Fee	\$50 - \$1,000 depending on the tons accept annually by the facility

Negative Fiscal Impacts: Processor Obligations

Recycling Processor Obligations

Commingled recycling processing facilities

1. Meet permit requirements, including capture rate and outbound contamination rate performance standards
2. Provide living wage and supportive benefits
3. Pay for follow-up assessments for compliance, if needed

**Items 1 & 2:
Expenses to be
covered by
Processor
Commodity Risk
Fee funding**

Limited sort facilities

1. New/amended permit (inc. requirements) – ***not eligible expenses for funding by Processor Commodity Risk Fee***

Potential for “wage compression” for some workers due to the projected increases under living wage and supportive benefits.

Positive Fiscal Impacts: Processor Obligations

Recycling Processor Obligations

- All processors are operating in a more effective, efficient, transparent and environmentally preferable manner, producing cleaner, higher quality material destined for responsible end markets.
- Commingled recycling processing facilities' workers are making a living wage and receiving supportive benefits, providing more spending power to workers and establishing better health outcomes.

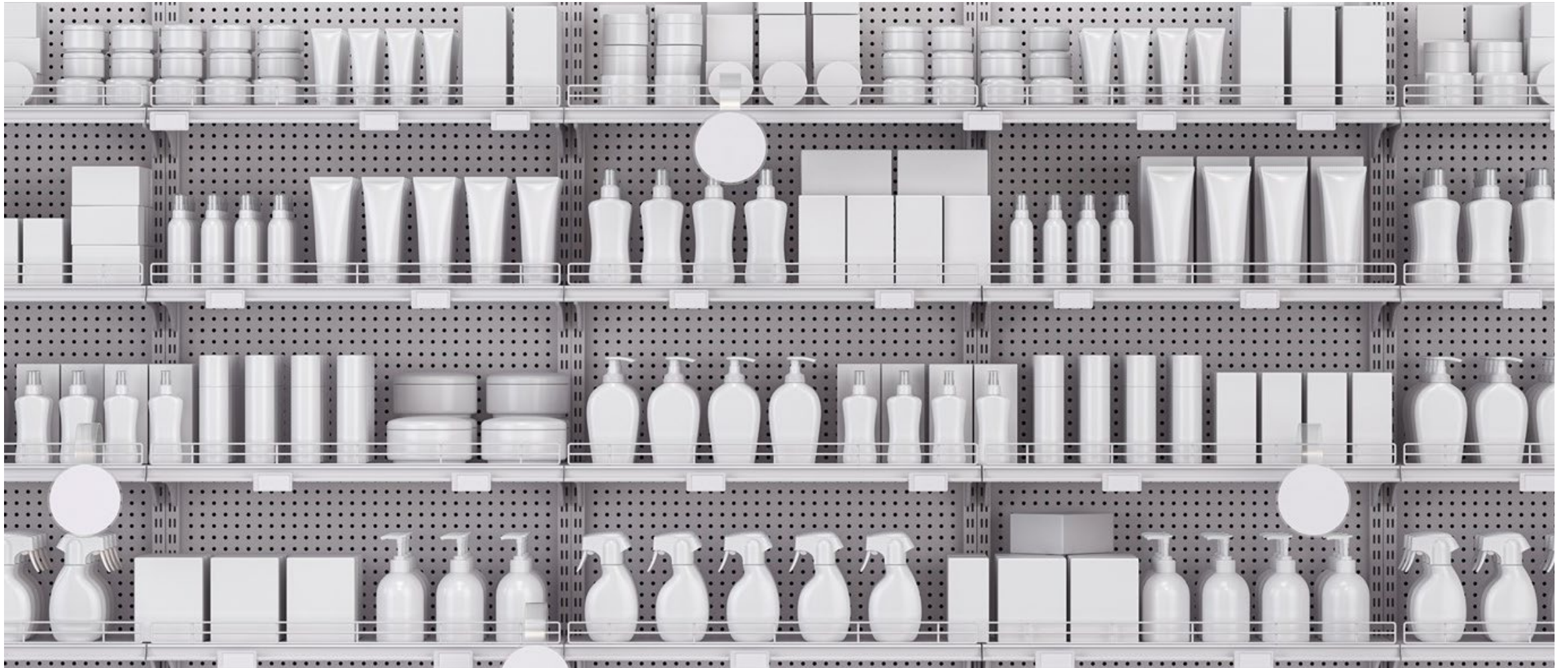
Recycling processor obligations



Discussion



Covered Products



Fiscal Impacts: Covered Products

Rules in this Section

- Clarifications to the Definition of Covered Products
- Covered Product Exemptions
- Exemptions for Materials Collected Outside of the Opportunity to Recycle

Negative Fiscal Impacts: Covered Products

Covered Product Exemptions

- **Producers** of non-exempt products will bear system costs associated with end-of-life management of the five newly-exempt product types.

Non-OTR Statutory Exemption

- **Producers** seeking this exemption may need to pay a fee to a PRO to verify the market(s) processing the material.

Positive Fiscal Impacts: Covered Products

Covered Product Exemptions

- **Producers** of the five product types exempt in rule will not need to pay fees for those products.

PRO Obligations



Fiscal Impacts of PRO Obligations

Rules in this Section

- Processor Commodity Risk Fee
- Contamination Management Fee
- Waste Prevention and Reuse Fee
- Amendments to Responsible End Market Obligation Rules
- Local Government Compensation for Evaluation of Contamination
- Local Government Compensation for Contamination Reduction Programming
- PRO 2024 Annual Reporting
- Amendments to Market Share Rules

Fees Included Among PRO Obligation Rules

Fee	Amount
Waste Prevention and Reuse Fee	The lower of: <ul style="list-style-type: none">• \$15 million annually adjusted upwards based on the Consumer Price Index, or,• 10 percent of the three-year average of all Producer Responsibility Organization(s) annual expenditures summed

Negative Fiscal Impacts of PRO Obligation Rules

- Processor Commodity Risk Fee & Contamination Management Fee
- Waste Prevention and Reuse Fee
- Compensation for LG Contamination Reduction Programming
- Local Government Compensation for Evaluation of Contamination

Producers will cover these costs as part of their membership fees paid to PROs (indirectly impacted)

Estimates of costs to PRO member producers

Element	Pre-Program and FY 2025	FY 2026	FY 2027
<i>Contamination Reduction Programming*</i>	\$13.1 million	\$13.1 million	\$13.1 million
<i>Payments to CRPFs*</i>	\$25.3 - \$32.9 million	\$50.4 - \$65.5 million	\$76.6 - \$99.6 million
<i>Waste Prevention and Reuse Fee</i>	\$0	\$7.3 - \$9.6 million	\$15 million
Total PRO Budget*	\$218.6 - \$286.7 million	\$334.2 - \$435.7 million	\$373.8 - \$482.6 million

**Figures taken from budget in CAA's March 31, 2024, PRO Plan*

Negative Fiscal Impacts of PRO Obligation Rules (cont.)

Amendments to Responsible End Market Obligation Rules

- PROs will bear some fiscal impacts associated with the need to track materials as prescribed (although this requirement is primarily imposed by statute)

PRO 2024 Annual Reporting

- PROs will bear a minor fiscal impact associated with development of an additional, but abbreviated, accounting report.

Positive Fiscal Impacts of PRO Obligation Rules

Processor Commodity Risk Fee

- Processors will benefit from more stability with respect to fluctuating commodity prices and funding that can be used for facility upgrades.
- Ratepayers should see stabilized rates.

Contamination Management Fee

- Processors will benefit from funding to cover the cost of managing covered product contamination.

Positive Fiscal Impacts of PRO Obligation Rules

Waste Prevention and Reuse Fee

- Community organizations and others who receive grant funding through this program will benefit.

Local Government Compensation for Evaluation of Contamination

- Local governments and their service providers may benefit by being able to spend these funds for onboard monitoring equipment.

Compensation for LG Contamination Reduction Programming

- Smaller local governments and their service providers may benefit from the increased ability to receive advance funding.

Producer Obligations



Fiscal Impacts of Producer Obligation Rules

Rules Included in this Section

- Clarifications to Producer Definitions
- Associated Producers
- Producer Pre-Registration

Negative fiscal impacts of the rules

Associated Producers

- **Producers (directly)** and **PROs (indirectly)** impacted to a minor degree in association with additional recordkeeping to keep track of which producers are associated.

Producer Preregistration

- The **producer** reporting burden and associated costs begins three months early.

Positive fiscal impacts of the rule

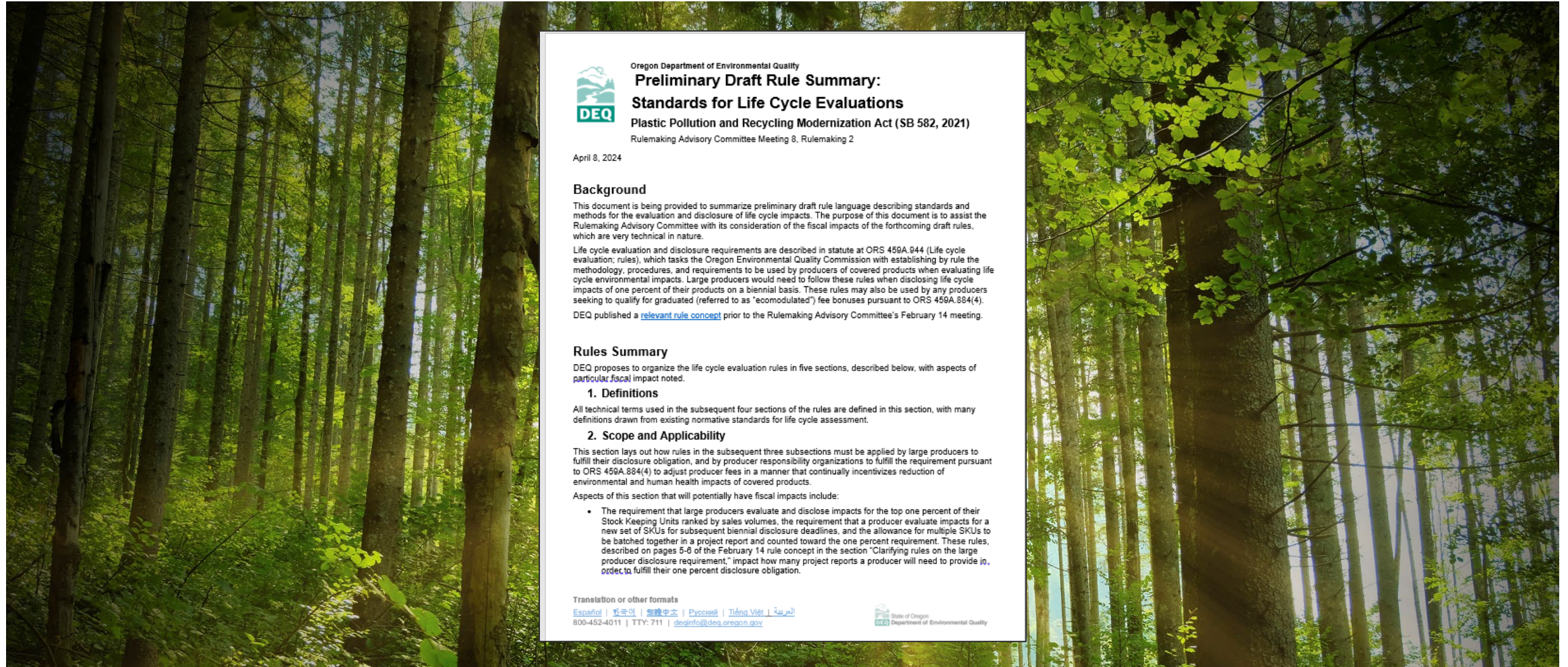
Associated Producers


- Producers will benefit from more equitable application of the “small” and “large producer” designations.

Producer Preregistration

- Producers will benefit from membership fees that are informed by advance supply data, and as such do not require as large a cushion to account for uncertainty.

Standards for life cycle evaluations



 Oregon Department of Environmental Quality
Preliminary Draft Rule Summary:
Standards for Life Cycle Evaluations
Plastic Pollution and Recycling Modernization Act (SB 582, 2021)
Rulemaking Advisory Committee Meeting 8, Rulemaking 2

April 8, 2024

Background

This document is being provided to summarize preliminary draft rule language describing standards and methods for the evaluation and disclosure of life cycle impacts. The purpose of this document is to assist the Rulemaking Advisory Committee with its consideration of the fiscal impacts of the forthcoming draft rules, which are very technical in nature.

Life cycle evaluation and disclosure requirements are described in statute at ORS 459A.944 (Life cycle evaluation; rules), which tasks the Oregon Environmental Quality Commission with establishing by rule the methodology, procedures, and requirements to be used by producers of covered products when evaluating life cycle environmental impacts. Large producers would need to follow these rules when disclosing life cycle impacts of one percent of their products on a biennial basis. These rules may also be used by any producers seeking to qualify for graduated (referred to as "ecomodulated") fee bonuses pursuant to ORS 459A.884(4). DEQ published a [relevant rule concept](#) prior to the Rulemaking Advisory Committee's February 14 meeting.

Rules Summary

DEQ proposes to organize the life cycle evaluation rules in five sections, described below, with aspects of [particular fiscal](#) impact noted.

1. Definitions

All technical terms used in the subsequent four sections of the rules are defined in this section, with many definitions drawn from existing normative standards for life cycle assessment.


2. Scope and Applicability

This section lays out how rules in the subsequent three subsections must be applied by large producers to fulfill their disclosure obligation, and by producer responsibility organizations to fulfill the requirement pursuant to ORS 459A.884(4) to adjust producer fees in a manner that continually incentivizes reduction of environmental and human health impacts of covered products.

Aspects of this section that will potentially have fiscal impacts include:

- The requirement that large producers evaluate and disclose impacts for the top one percent of their Stock Keeping Units ranked by sales volumes, the requirement that a producer evaluate impacts for a new set of SKUs for subsequent biennial disclosure deadlines, and the allowance for multiple SKUs to be batched together in a project report and counted toward the one percent requirement. These rules, described on pages 5-8 of the February 14 rule concept in the section "Clarifying rules on the large producer disclosure requirement," impact how many project reports a producer will need to provide in order to fulfill their one percent disclosure obligation.

Translation or other formats
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 State of Oregon
Department of Environmental Quality

Fiscal Impacts of Life Cycle Evaluation of Covered Products

Rules Included in this Section

- Definitions
- Scope
- Project Report Requirements
- Product Category Rules
- Additional Environmental and Human Health Information

Fiscal Impacts of Life Cycle Evaluation of Covered Products



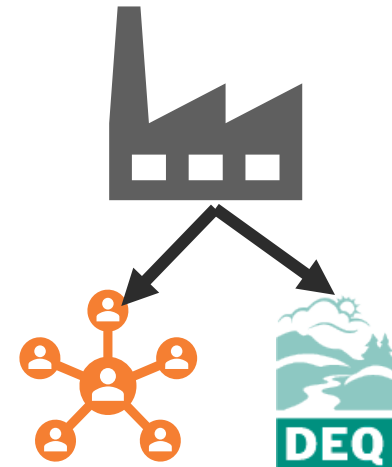
PRO administers bonuses.



Producers conduct assessments (\$40-90k cost if they hire a consultant, less if they have in-house expertise or do batch assessments).



Third parties verify the assessments (\$5-10k)



Producers submit to DEQ and the PRO.

Negative fiscal impacts of the rules

Project Report

- **Producers** must cover costs of 3rd party verification.

Product Category Rules

- **Producers** who don't receive a bonus may pay a surcharge on their fees to balance the budget and allow others to receive the bonus.
- **Producers seeking bonus/large producers:** additional recordkeeping required to address novel aspects of proposed method.

Additional Environmental and Human Health Information

- **Producers seeking bonus/large producers:** additional recordkeeping required to collate together the required info.

Positive fiscal impacts of the rule

Scope

- **Producers** that conduct evaluations in accordance with these rules can receive bonuses on their fees.

Product Category Rules

- **Producers** whose (design change/other upstream) actions meet the substantial reduction threshold can particularly benefit, as this bonus must be greater than that for simple disclosure.
- **Producers who transition to reusable packaging** may benefit from the 3-year grace period during which they can use data projections when attempting to qualify for the substantial impact reduction bonus.

Local Government Obligations



Fiscal Impacts of Local Government Obligations

Rules Included in this Section

- Contamination Reduction Programming Elements
- Multifamily Recycling Enclosures

Negative fiscal impacts of the rules

Multifamily recycling enclosures

- **Local governments** are required to submit an implementation plan

Positive fiscal impacts of the rule

Contamination reduction programming elements

- Rules may benefit **customers** by limiting the fees that may be charged to those who contaminate recycling.

Enforcement and Other Rules



Fiscal Impacts of Enforcement and Other Rules

Rules Included in this Section

- Division 12 Enforcement
- Subscription service for materials on PRO Recycling Acceptance List
- Housekeeping Rule Amendments
 - Removal of gift wrap from USCL
 - Removal of storage containers from PRO Recycling Acceptance list

Negative fiscal impacts of Other rules

No negative impacts have been identified.

Positive fiscal impacts

Subscription services for PRO List

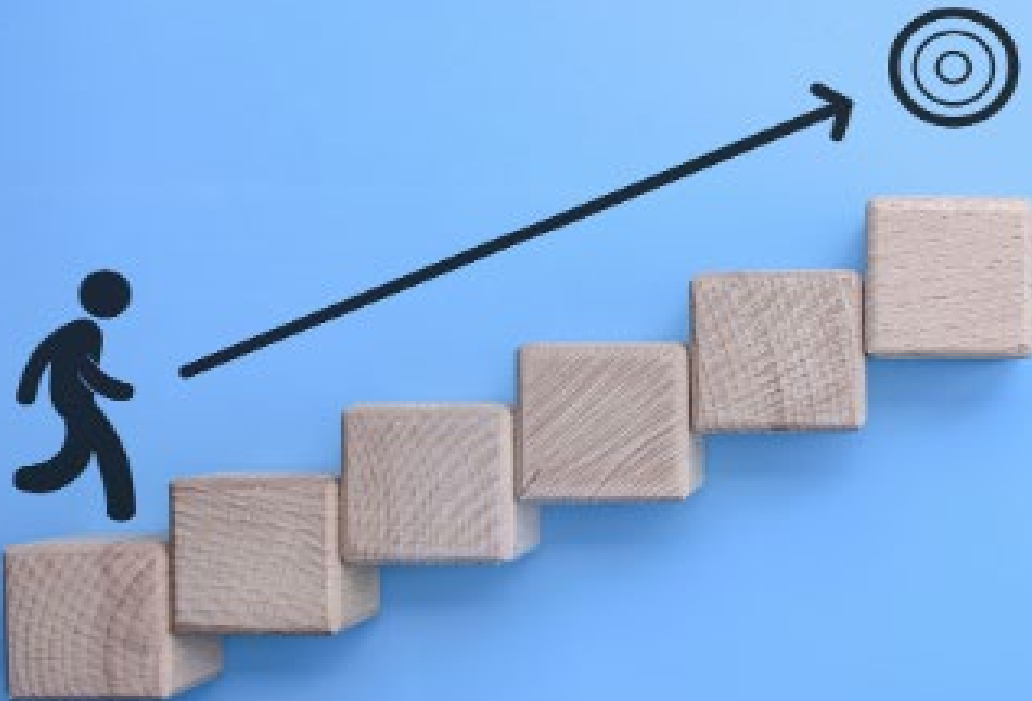
- Companies that provide subscription services may continue to provide these services

Public Input Period

To request to provide input,
message **Stephanie Caldera (Host)**
in the chat.

Input can also be emailed to
recycling.2024@deq.oregon.gov

Next steps



- Email any questions or feedback to:
recycling.2024@deq.oregon.gov
- Public Comment Period will open early June
- Sign-up for EQC meeting updates:
www.oregon.gov/deq/about-us/eqc/pages/default.aspx

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