

Meeting Summary

Recycling Modernization Act Rulemaking



Advisory Committee Meeting 7 April 3, 2024

On April 3, 2024, DEQ convened the seventh meeting of the Plastic Pollution and Recycling Modernization Act Rulemaking Advisory Committee, for the second of two rulemakings. The meeting was held via Zoom, and people could connect by computer or telephone.

The purpose of the meeting was to:

- Provide updates about earlier rule concepts previously presented to the committee
- Introduce the Producer Pre-Registration rule concept.
- Introduce proposed updates to the Market Share rules and a rule concept related to local government requirements for multi-family enclosures.
- Introduce the Local Government Compensation for Contamination Reduction Programming rule concept.
- Introduce the Local Government Compensation for Evaluation of Contamination rule concept
- Introduce the Commingled Recycling Processing Fees rule concept.
- Introduce the Certification Program for Out-of-State Commingled Recycling Processing Facilities rule concept.

Meeting Summary

• **Welcome, meeting overview**

DEQ welcomed the meeting attendees and provided an overview of the agenda and what was planned for the day.

• **Introductions**

Alex Bertolucci welcomed and introduced DEQ staff and the rulemaking advisory committee members. Members were asked to state their names and introduce themselves. Claire Dorfman and Chris Drier were unable to attend the meeting.

• **Updates from Previous Meetings**

Justin Gast and Nicole Portley began by providing updates about rule concepts that were presented during previous RAC meetings for the related topics: exemptions from non-Opportunity to Recycling, life cycle evaluation and plastic weightings and the definition of reusable, and updates about the contamination management and processor risk commodity fees.

Discussion and questions from the RAC:

- DEQ was questioned about legislative intent of the statute, and whether it was meant to handle commercial material and not residential and why is residential material being combined in the exemption?
- DEQ should reconsider the weighting proposal for plastics.

Translations or other formats

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- It is important that the rules distinguish between ownership of returnable and refillable containers, for example, consumers do not own returnable packaging. This would be consistent with definitions used in Europe.
- There are a couple of examples about the ownership of refillable containers in Canada. Refillable beer bottles are considered to be 'owned' by the consumer.

- **Rule Concept: Producer: [Producer Pre-Registration](#)**

Nicole Portley introduced the rule concept titled 'Producer Pre-Registration' to the committee. The rule concept proposes that producers intending to sell, offer for sale or distribute covered products in or into the state on or after July 1, 2025 must pre-register with and submit 2024 supply data to a producer responsibility organization no later than March 31, 2025. They will not be required to pay fees to the PRO prior to the implementation start date.

Discussion and questions from the RAC:

- Support for the proposal was expressed.

- **Rule Concept: [Updates to Market Share Rules, Local Government Requirements for Multi-Family Enclosures](#)**

Nicole Portley presented a rule concept that proposes to update the existing Market Share rules, which were first adopted in November 2023 by the Environmental Quality Commission. The revisions would align the timing for DEQ and the PRO(s) for:

- The calendar to use for the preliminary and final market share calculations.
- The purpose for the preliminary and final calculations.
- Standardize which data year will be used to set the fees.

Discussion and questions from the RAC:

- Support for the clarification of the reporting deadlines was expressed.

Arianne Sperry introduced rules concepts related to multifamily recycling enclosures. DEQ is proposing to clarify in rule two items related to recycling provided at multifamily properties:

- Amend the existing rules to remove the effective date to provide local governments more flexibility
- Clarify implementation plan requirements for local governments

Discussion and questions from the RAC:

- Finding better ways to provide service to multifamily properties is a priority for Metro. It is important that multifamily properties are not forgotten. DEQ should ensure that they are collaborating with local governments to ensure they understand proposed definitions.
- Multiple members expressed support and understanding for providing more time but there should be a deadline.
- Will the multifamily requirement apply in communities with populations less than 4000?
 - DEQ: no this will only apply to communities with populations over 4000.
- Consideration for existing properties with limited space
- DEQ should consider providing a template to local governments.
- Adequate space needs to be connected to vehicle accessibility.

- **Rule Concept: [Local Government Compensation for Contamination Reduction Programming](#)**

Arianne Sperry introduced the Local Government Compensation for Contamination Reduction Programming rule concept which proposes in rule:

- Establishing a \$3 per capita per year cap for contamination reduction programming activities.

- Funding to conduct periodic contamination evaluations at locations other than commingled recycling processing facilities not included with the \$3 per capita per year cap.
- Use the certified population estimate from the previous year to the eligible compensation for the upcoming fiscal year.
- Allow local governments to receive funding in advance, and to allow advance funding up to \$150,000 for local governments with communities of 50,000 or fewer for several years of funding.

Discussion and questions from the RAC:

- Members from the RAC asked DEQ to clarify and consider further clarifying the proposals presented in the rule concept:
 - Clarify whether each local government eligible for up \$150,000 or is it limited based on population.
 - DEQ should define “several years”.
 - Clarify what information or criteria would be required to receive advanced funding.
- \$150,000 is not a lot of money and for perspective, would pay for one staff person’s salary for approximately two years.
- This funding would be helpful particularly in smaller communities who have not conducted any contamination evaluations.
- Consider capping the number of years eligible for advanced funding to align with the 5-year plan cycle

● **Rule Concept: Local Government Compensation for Evaluation of Contamination**

Ariane Sperry introduced this rule concept, which was initially planned to be presented during the sixth RAC meeting on March 14, 2024. This rule concept proposes clarifications to statute ORS 459A.929(2)(b) clarifying:

- That costs incurred by local governments and their designated service providers, including reload facilities and limited sort facilities that are also reload facilities are eligible for funding.
- Administrative and staffing costs, and the costs associated with the purchase, installation, and ongoing use and maintenance of on-board contamination monitoring equipment are eligible for funding.
- System expansion costs made via the rules for the ‘Expansion of Service Funding and Needs Assessment’ (OAR 340-090-0800) are ineligible
- Costs incurred at limited sort facilities that are not also limited sort facilities ineligible.
- Costs incurred at commingled recycling processing facilities are ineligible.

Discussion and questions from the RAC:

- Members had questions about the eligibility for this funding and how the periodic evaluations would be conducted.
- DEQ was cautioned and asked to consider whether PRO-funded cameras on hauler’s trucks could be used to charge customers fees.
- Is there information about the effectiveness of the various communication tools to address contamination on-route.
- From the PRO(s) perspective, a periodic evaluation would be every five years.

Public Input Period

The public input period was opened at 11:15 a.m. and the following meeting attendees spoke:

- 1) Gina Miller, Umatilla County
 Asked how producers located out-of-state will be brought into the system now knowing that there is only one PRO.

The public input period was closed at 11:22 a.m.

Rule Concept: [Commingled Recycling Processing Facility Permit Fees](#)

Justin Gast presented the Commingled Recycling Processing Facility Permit Fees rule concept, which proposes:

- A permit application fee of \$100-\$500, to be assessed based on the anticipated tons received annually by the facility.
- An annual permit compliance fee of \$50-\$1,000 to be assessed based on the tons accepted annual by the facility.

Discussion and questions from the RAC:

- What is the rationale for the fees given the low dollar amount?
 - DEQ: It made the most sense to have to have the fees align with the existing fees in statute.

- **Rule Concept: [Certification Program for Out-of-State Commingled Recycling Processing Facilities](#)**

Justin Gast presented the Certification Program for Out-of-State Commingled Recycling Processing Facilities rule concept. DEQ is proposing that certification requirements will be required for out-of-state facilities if they accept at least 2,500 tons of eligible materials in a calendar year.

The rule concept also proposes clarifying the application of performance standards. DEQ is proposing the amount of materials assessed at a facility be based on the percentage of inbound commingled recyclable material processed that originated in Oregon, compared against the total tonnage of commingled recyclable material processed by the facility over the last year. Responsible end market criteria would apply to 30% of the outbound material. The evaluation and reporting requirements would apply to 100% of materials originating from Oregon.

Discussion and questions from the RAC:

- Do out-of-state facilities need to follow the responsible end market criteria?
 - DEQ: the facilities that accept at least 2,500 tons of Oregon-originated materials will need to meet all of the same CRPF permit requirements, including the responsible end market requirements.
- Multiple members agreed that DEQ should consider lowering the threshold for certifying out-of-state facilities significantly so there is more assurance that the materials are being processed to Oregon's standards.
- What would happen if an out-of-state facility refuses certification?
 - DEQ: It would be DEQ's responsibility to enforce against a local government/reload facility that is sending materials to a non-certified facility.
- Does the percentage need to be defined or can a sampling methodology be used instead?
- Is the assessment method for manual sorting already drafted?
 - DEQ: the manual sorting method will likely be similar to the outbound assessment DEQ currently uses.
- The requirement allowing the facilities to select the bales that are representative of Oregon's materials seems ambiguous and made introduce sampling bias.
- How will the review of the program plan and the remaining rulemaking process be reconciled?

- **Meeting adjournment and next steps**

DEQ adjourned the meeting at 11:56 p.m. The next RAC meeting will be held on Zoom on April 16, 2024.