

# Plastic Pollution and Recycling Modernization Act: Public Hearings

Rulemaking 2

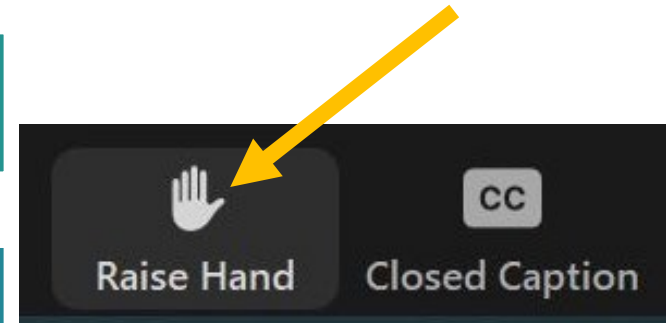
June 27, 2024

Zoom Virtual Meeting

# Zoom Meeting Tips

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- 1 Join audio either by phone or computer, not both
- 2 To comment or ask a question, use the raise hand button; if by phone press \*9
- 3 This meeting is being recorded
- 4 For Zoom technical issues email [stephanie.caldera@deq.oregon.gov](mailto:stephanie.caldera@deq.oregon.gov)



# Agenda

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Welcome

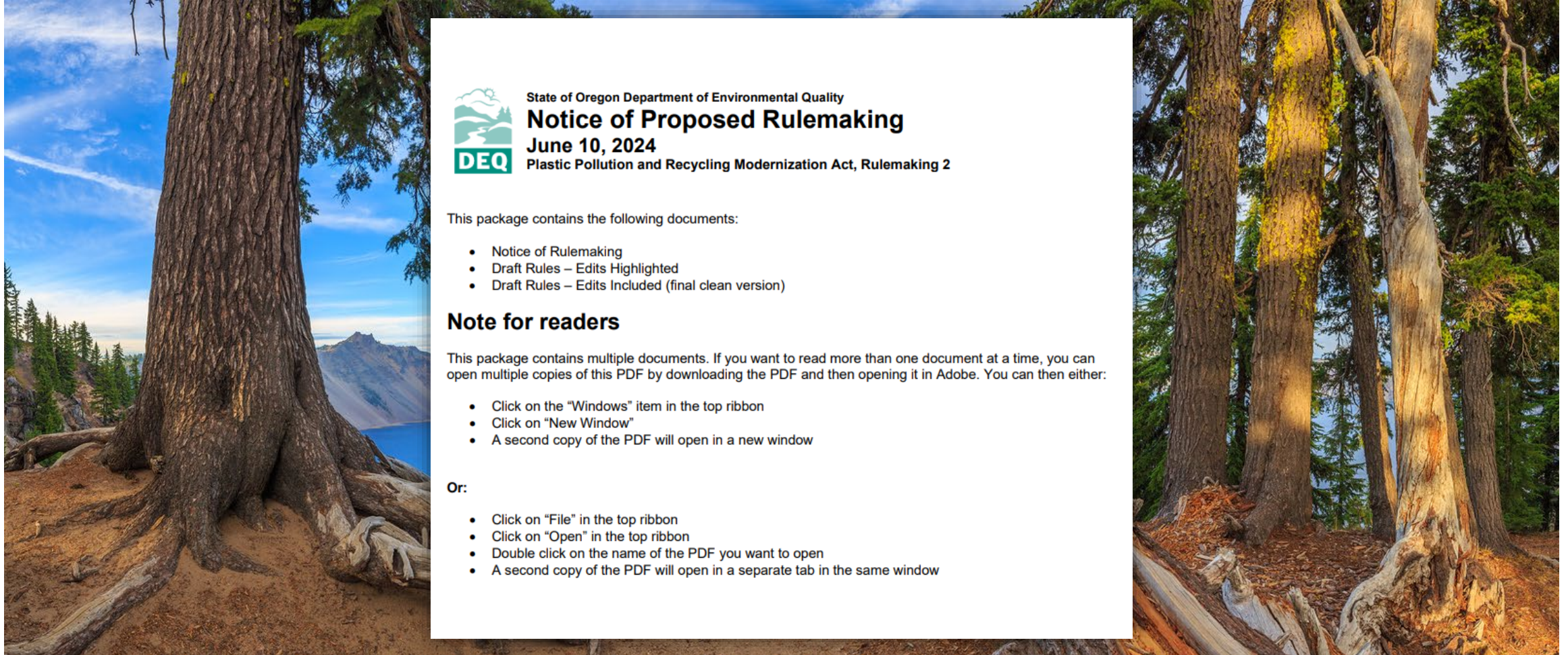
Rulemaking overview

Rules overview

Question and answer period

Formal public comment period

# Rulemaking Notice



State of Oregon Department of Environmental Quality

## Notice of Proposed Rulemaking

June 10, 2024

Plastic Pollution and Recycling Modernization Act, Rulemaking 2

This package contains the following documents:

- Notice of Rulemaking
- Draft Rules – Edits Highlighted
- Draft Rules – Edits Included (final clean version)

### Note for readers

This package contains multiple documents. If you want to read more than one document at a time, you can open multiple copies of this PDF by downloading the PDF and then opening it in Adobe. You can then either:

- Click on the “Windows” item in the top ribbon
- Click on “New Window”
- A second copy of the PDF will open in a new window

Or:

- Click on “File” in the top ribbon
- Click on “Open” in the top ribbon
- Double click on the name of the PDF you want to open
- A second copy of the PDF will open in a separate tab in the same window

# Public Hearing Comments

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Verbal comments will be documented in DEQ staff report

DEQ will respond to all written and verbal comments in the staff report

Staff report will be published 1 week before the Environmental Quality Commission meeting

The Commission will review and decides whether to adopt the proposed rules at the Nov. 2024 meeting

# Second RMA Rulemaking

2

Second of two rulemakings



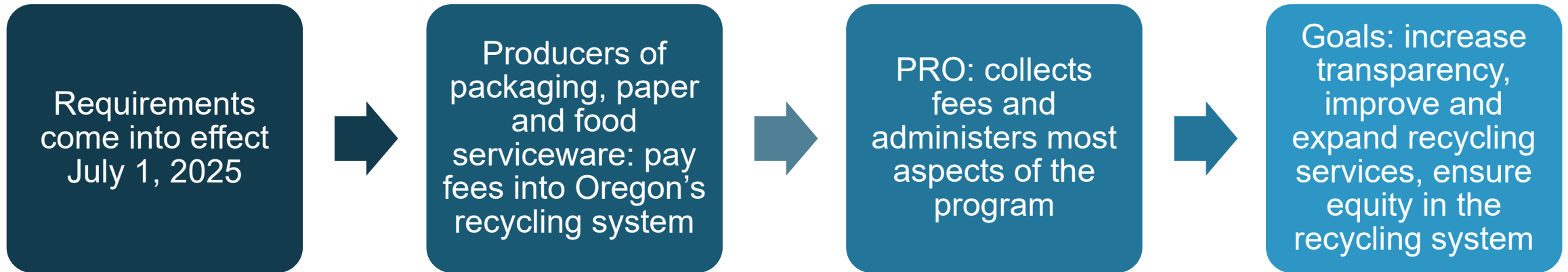
~ 20 rule topics presented to the Rulemaking Advisory Committee



RAC met 8 times between July 2023- April 2024

# Implementation

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# Rule Topics

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- Recycling Processor Obligations
- Covered Products
- Producer Responsibility Organization Obligations
- Producer Obligations
- Standards for Life Cycle Evaluations
- Local Government Obligations
- Amendments to Enforcement Rules (Division 12)



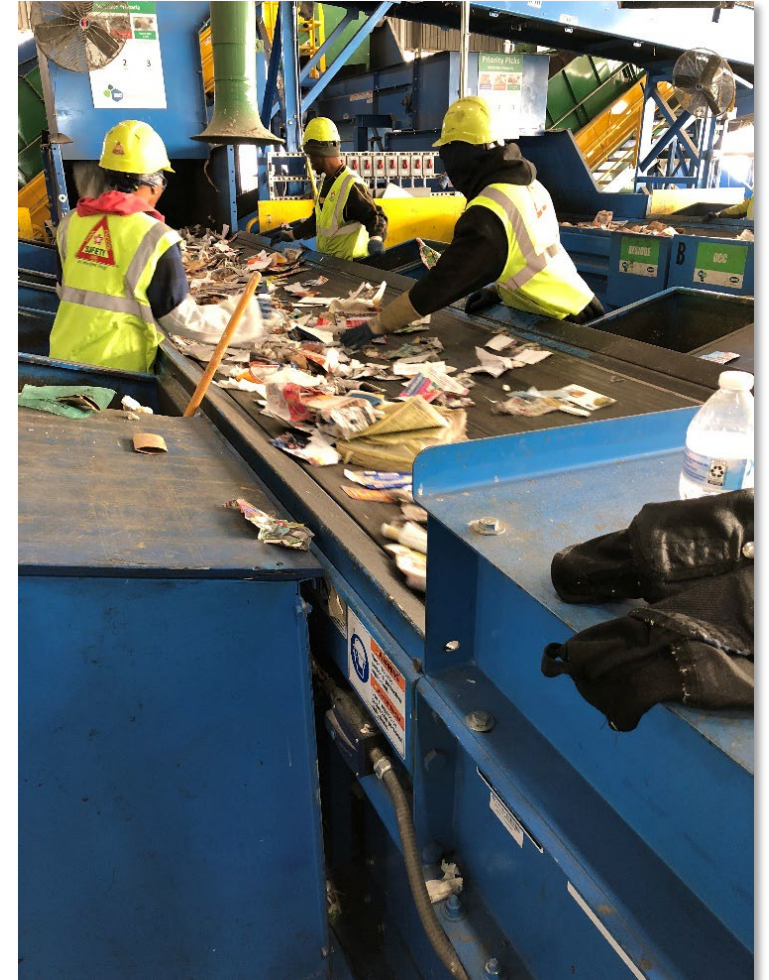
# Recycling Processor Obligations - Permit

## **OAR 340-096-0300**

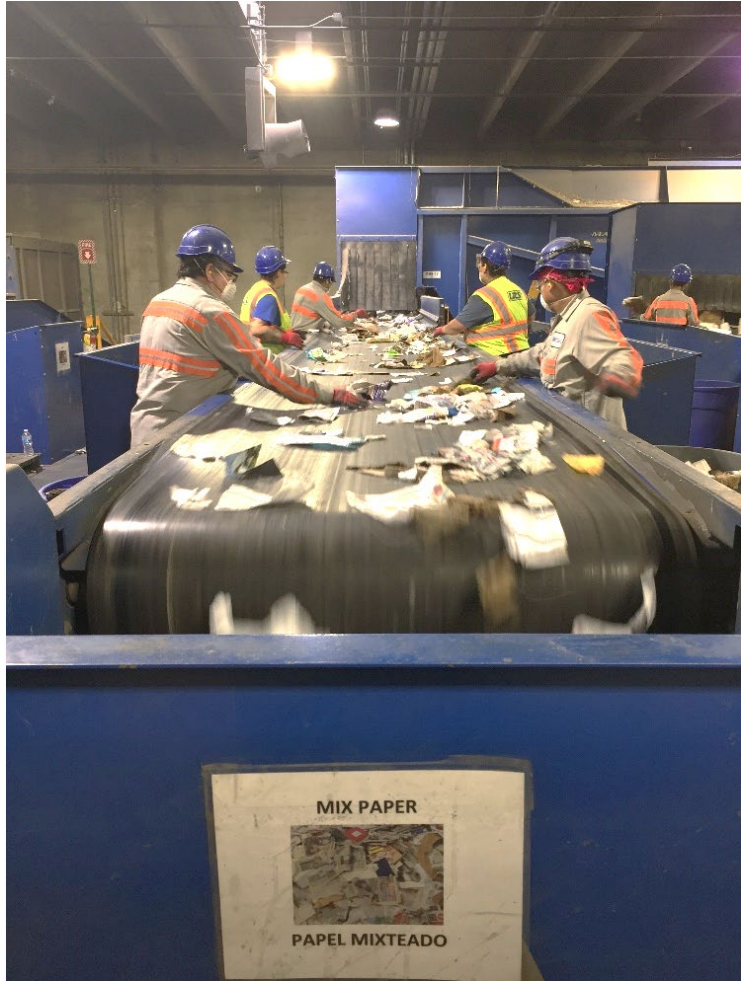
- Lays out permit eligibility requirements.
- Capture rates/outbound contamination rate.
- Establishes other non-material specific performance standards.
- Responsible end markets requirements, inc. material disposition.

## **OAR 340-097-0120**

- Permit and registration application fee: \$100-\$500 depending on anticipated tons received annually.
- Annual Compliance Fee: \$50-\$1,000 depending on the tons accepted annually by the facility.



# Recycling Processor Obligations



## Certification

**OAR 340-096-0820**

- **Threshold**
  - only applies to an out-of-state CRPF that has accepted at least 280 tons of commingled recyclable material that originated in Oregon in that calendar year.
- Similar performance standards, though requirements related to public nuisance and air or water pollution will be addressed by local and/or state ordinances or laws within state where processing facility is located.

# Recycling Processor Obligations

## Living Wage/Supportive Benefits

### OAR 340-096-0840

- Defines 'worker'
  - Sort line workers and persons performing other materials processing tasks.
- Defines 'living wage'
  - a wage one full-time worker must earn, calculated on an hourly basis, to cover the cost in the place where they live of their household's minimum basic need without additional income or subsidization.
- Defines 'supportive benefits'
  - Benefits provided to a worker to support their health and well-being, including health insurance, disability insurance, life insurance and paid time off.



# Recycling Processor Obligations – Living Wage

Facility location – State (county)	Calculated hourly living wage
California (Humboldt)	\$25.82
Oregon (Clackamas)	\$31.69
Oregon (Klamath)	\$23.35
Oregon (Lane)	\$26.94
Oregon (Marion)	\$25.76
Oregon (Multnomah)	\$31.90
Oregon (Washington)	\$32.58
Washington (Clark)	\$28.42



# Recycling Processor Obligations



## Responsible End Markets OAR 340-096-0310

- Establishes requirements around screening assessment and ongoing annual verification of end markets, in accordance with the responsible standard.
- Establishes requirements for material destined for a non-mechanical recycling method.
- Establishes material disposition reporting requirements.
- Establishes requirements around bale/material tracking.

# Limited Sort Facilities

- **OAR 340-093-0030** Establishes definition for two types of limited sort facilities (those upstream and downstream of a CRPF).
- **OAR 340-096-0300** Establishes permit requirements for limited sort facilities.
- Updates **OAR 340-097-0120** (fee structure) to recognize limited sort facilities.



# PRO Obligations

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## Waste prevention and reuse fee

### OAR 340-090-0690(3)

#### Equal to the lesser of:

- \$15 million\*, or
- 10% of the average of any PRO's annual expenditures for the prior three calendar years.

\*As adjusted based on Consumer Price Index for All Urban Consumers (CPI-U)

#### The Fee is calculated to ensure:

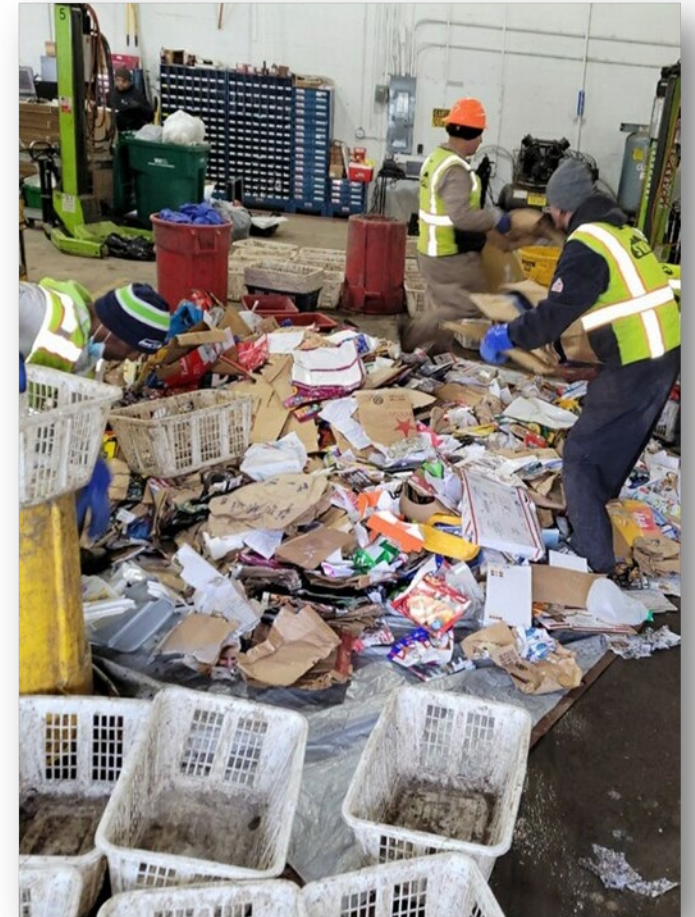
- a. Revenue that will allow for a reduction in environmental impacts,
- b. DEQ may adjust the fee downwards in a given year if DEQ determines a lesser amount if adequate to support established programs.

# PRO Obligations

**Local government compensation for contamination evaluation**

**OAR 340-090-0810(2)-(3)**

Defines eligible and ineligible costs under ORS 459A.890(3) for periodic evaluation of recycling that occurs at a location other than a commingled recycling processing facility.





# PRO Obligations

## Local government compensation for contamination reduction programming

OAR 340-090-0810(3)-(6)

- Amends rules adopted in Nov. 2023 regarding compensation for contamination reduction programming, per ORS 459A.890(4).
- Clarifies amount of compensation local governments and their designated service providers are eligible for and how funding amount will be calculated each year.



# PRO Obligations: CRPF Fees

## Contamination Management Fee OAR 340-090-0830

- Establishes eligible and ineligible material.
- Establishes per-ton fee rate to be paid on eligible material removed and disposed of.
- Establishes requirements, including invoicing, associated with the removing and recycling of covered product contamination.
- Establishes reporting requirements.



# CRPF Fees



## Processor Commodity Risk Fee OAR 340-090-0820

- Establishes how fee will be paid, including the invoicing approach.
- Establishes fixed-in-rule statewide average per-ton operating cost fee rate.
- Establishes approach to determine average commodity value.
- Establishes approach to updating of commodity weighting factors.
- Establishes reporting requirements.

# Covered Products – OAR 340-090-0840(1)(a)-(c)



Storage items are packaging



Service packaging is packaging



Consumer wraps are packaging

# Food Serviceware – OAR 340-090-0840(1)(d)

- Food serviceware is sold *empty or unused* to a retailer or dine-in or take-out restaurant who then uses it to prepackage food for resale, fills it on site, or resells it as is.
- Food serviceware is used to contain or consume food that is *ready to eat*.

Food Serviceware



Packaging



# Exemptions – OAR 340-090-0840(2)



Durable packaging for durable goods.



Some ag chemical packaging.



Packaging used in healthcare facilities for the management of infectious waste as defined in ORS 459.386.



Pressurized cylinders: 1) pure H<sub>2</sub> or O<sub>2</sub>, any size; 2) Acetylene, 10 ft<sup>3</sup> and larger; and 3) CO<sub>2</sub>, 5 lbs. and larger



Class III medical device packaging.  
Class II medical device packaging sold labeled sterile and for which a 510(k) premarket notification has been cleared by the FDA.

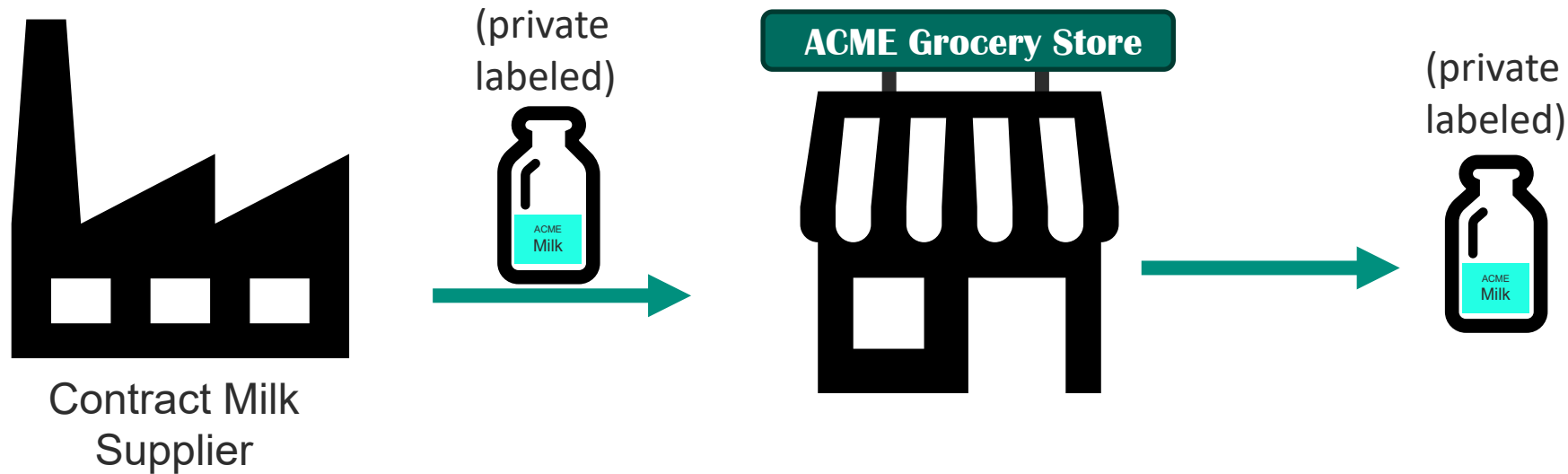
# Exemption for recycling outside the OTR

## OAR 340-090-0840(3)

1. What is considered “collected outside Opportunity To Recycle?”
2. What is considered “separated at a CRPF?”
3. How is the responsible end market requirement to be verified?
4. Materials counted toward the convenience standard cannot be exempt



# Producer Obligations – OAR 340-090-0860



- Tier 1 - The manufacturer of the item contained in the packaging, if the item is sold in packaging under the manufacturer's own brand or is sold unbranded, i.e., the brand owner is the obligated producer.
- Tier 2 - The licensee of the brand owner or trademark holder, if the licensee manufactures the item.
- Tier 3 - The first importer of the packaged item into the country, if no entity in the United States is identifiable under the previous two tiers.



# Associated Producers Proposed Rule

## Small Producers

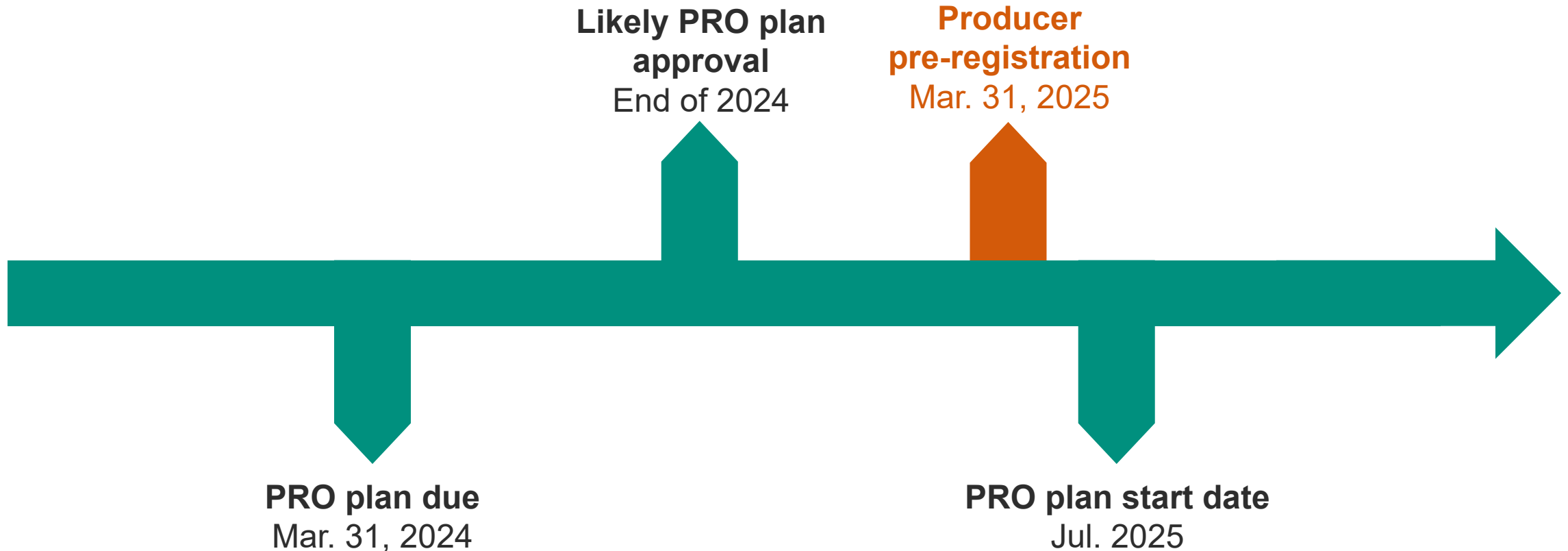
- Don't need to register with a PRO or pay fees
- Encompasses several types of producers, including those that meet either of the following two de minimis thresholds:
  - Less than \$5 million annual global revenue
  - Less than one metric ton of covered product sold into Oregon annually

## Large Producers

- Must evaluate and disclose the life cycle impacts of 1% of their covered products biennially
- Top 25 producers by weight-based market share

Requires several types of associated businesses to lump their production and revenues for the purposes of applying the “small” and “large producer” designations.

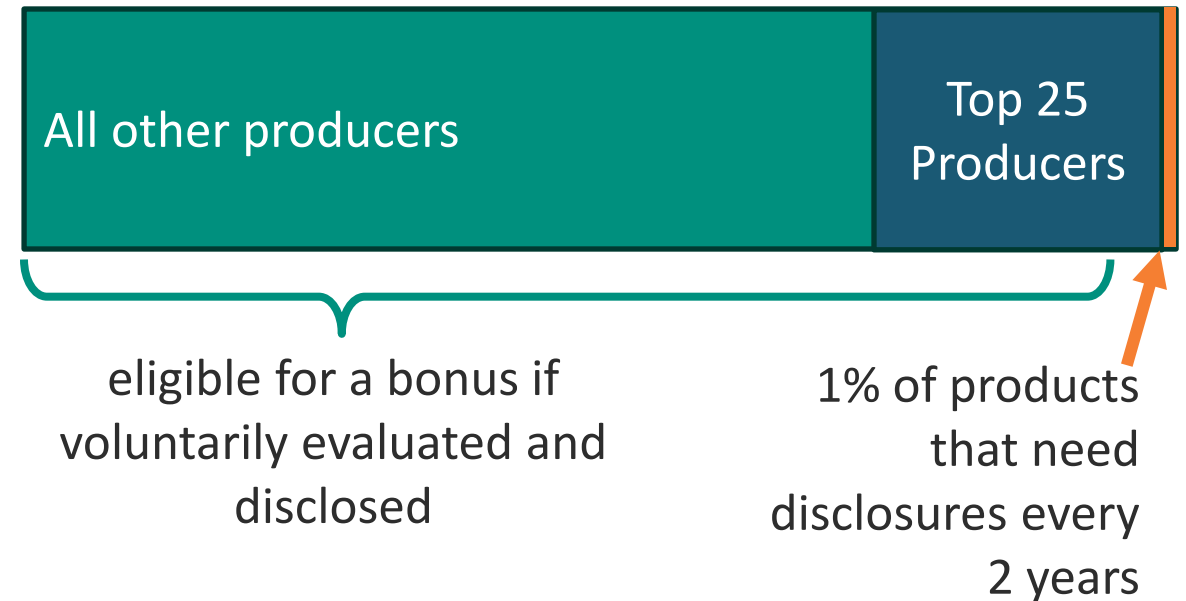
# Producer Obligations-producer pre-registration



# Standards for Life Cycle Evaluations

## Rules apply to...

- Top 25 producers that must disclose impacts for 1% of their products once every two years.
- These rules tell them how to define their 1%, the calendar for disclosure, and what to do for subsequent deadlines.
- PROs have to offer their member producers one bonus for simple evaluation and disclosure and a larger bonus for evaluation and disclosure that meets our threshold for substantial impact reduction.



# Life Cycle Evaluation Rules

Impact Category Indicator	Seriousness Weighting	Robustness Factors	Intermediate Coefficients	Final Weighting
	(A)	(B)	C = A*B	C Scaled to 100
Climate change	14.41	0.87	12.54	21.24
Water use	10.88	0.47	5.11	8.66
Land use	10.16	0.47	4.78	8.09
Resources use, fossils	8.36	0.6	5.02	8.50
Resource use, minerals and metals	7.58	0.6	4.55	7.71
Ionizing radiation, human health	6.47	0.47	3.04	5.15
Ozone depletion	6.33	0.6	3.80	6.43
Particulate matter	6.2	0.87	5.39	9.14
<b>Plastic physical impact on aquatic biota</b>	<b>5.88</b>	<b>0.17</b>	<b>1.00</b>	<b>1.69</b>
Acidification	5.61	0.67	3.76	6.37
Photochemical ozone formation, HH	5.38	0.53	2.85	4.83
Eutrophication, freshwater	3.55	0.47	1.67	2.83
Eutrophication, terrestrial	3.3	0.67	2.21	3.75
Eutrophication, marine	3.29	0.53	1.74	2.95
<b>Plastic – other impacts</b>	<b>2.61</b>	<b>0.60</b>	<b>1.57</b>	<b>2.65</b>

# Life Cycle Evaluation Rules

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Additional  
Environmental  
and Human  
Health  
evaluation  
requirements,  
under which  
producers  
must:

- Report hazardous substances embedded in their products and any associated hazardous release, exposure, and/or alternatives assessments.
- Report any instances of non-compliance in any jurisdiction pertaining to customer health and safety.
- Cross-report EU sustainability reporting regarding material impacts of their packaging on affected communities.

# Local Government Obligations

## Multifamily Recycling Enclosures

### OAR 340-090-0030(7)(b)

Amendment clarifies local governments must submit an implementation plan by 2027 to comply with requirement in ORS 459A.911 to ensure adequate space for recycling collection at multifamily properties.



# Local Government Obligations

## Contamination reduction programming elements

### **OAR 340-090-0035**

Defines responsive to diverse populations, significant and repeated contamination, and the conditions for applying fee and service consequences.



# Other rule amendments

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- Remove items from material acceptance lists
- Subscription service for materials on PRO acceptance list
- Additional criteria for consideration of alternative compliance proposals to meet the convenience standard
- Flexibility to continue to collect materials commingled
- Division 12 Enforcement rules

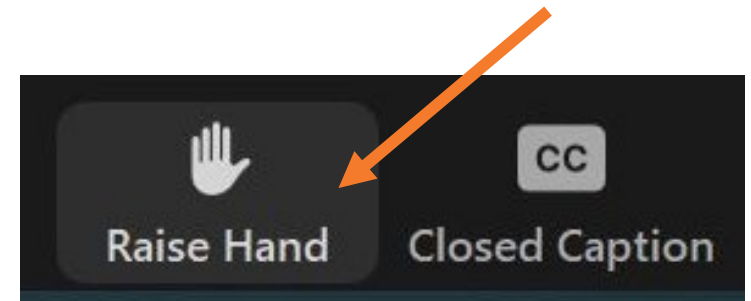


# Q&A

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Zoom attendees: Please use the raise hand function

Phone attendees: dial \*9



# Formal Comment Period

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To make a verbal comment, please:

- Use the “raise hand” function, on the Zoom video
- Press \*9 to access this function on a phone
- Message the host (Stephanie), using the chat feature, to indicate that you’d like to provide comment

# How to comment



At this public hearing



Email: Send comments by email to [recycling.2024@deq.oregon.gov](mailto:recycling.2024@deq.oregon.gov)



Postal mail: Oregon DEQ  
Attn: Roxann Nayar/Materials Management | 700 NE Multnomah Street, Suite 600  
Portland, Oregon 97232-4100



All comments must be received by 4 p.m. PDT on **Friday, July 26, 2024.**

# More information

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- To view the public notice packet or sign up for email alerts, visit the Recycling 2024 Rulemaking Website:  
<https://www.oregon.gov/deq/rulemaking/Pages/recycling2024.aspx>
- DEQ intends to bring proposed rules to the EQC at the November 2024 meeting.  
<https://www.oregon.gov/deq/about-us/eqc/pages/default.aspx>

# Thank You!

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Recycling 2024 GovDelivery updates:

[www.oregon.gov/deq/rulemaking/Pages/recycling2024.aspx](http://www.oregon.gov/deq/rulemaking/Pages/recycling2024.aspx)

Environmental Quality Commission meeting updates:

<https://www.oregon.gov/deq/about-us/eqc/pages/default.aspx>

# Title VI and alternative formats

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