

Oregon E-Cycles Rulemaking Meeting 3

Materials Management Program

July 10, 2024
Zoom Virtual Meeting

Meeting agenda

Time	Topic
9 a.m.	Welcome, meeting overview, committee introduction
9:10 a.m.	Rule concept presentations and discussion
10:15 a.m.	Break
10:25 a.m.	Public input period
10:40 a.m.	Continued draft rule discussion
11 a.m.	Fiscal impact statement, racial equity and environmental justice
12 p.m.	Adjourn meeting

Webinar tips

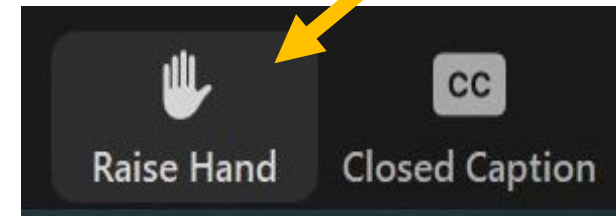
Join audio by either phone or computer, not both.

For committee discussion and comments, use the raise hand button; if joined by phone press *9 (press *6 to unmute)

This meeting is being recorded.

For Zoom technical issues, send a message through the chat to Nikki Hogan, or email: Nicole.Hogan@deq.oregon.gov

Thank you for joining us today!



Communications

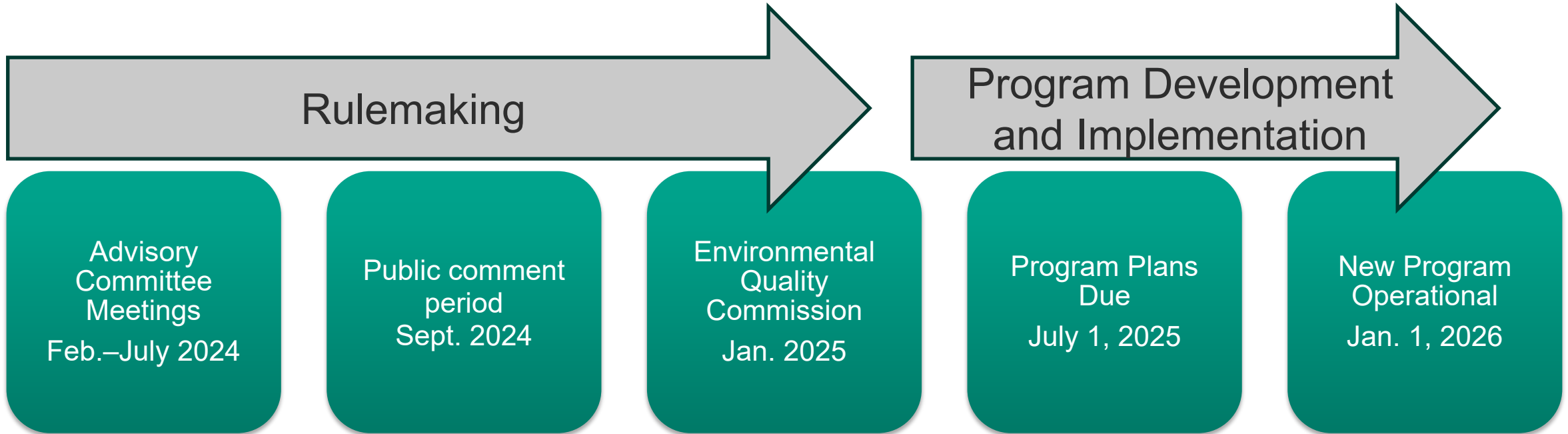
- DEQ will post meeting materials including meeting slides and summaries on the [E-Cycles rulemaking webpage](#)
- Sign-up for email updates ([Gov Delivery](#))
- Informal public input today
- Submit formal comments on draft rules later this year



Introductions – RAC members

Name	Affiliation
Jim Puckett	Basel Action Network
Walter Alcorn	Consumer Technology Association
Zack Dahl	Dahl Disposal Services
Tim Brownell	Deschutes County
Don Hennen	Dynamic Lifecycle Innovations
Tricia Conroy	Electronic Manufacturers Recycling Management Company, LLC
Durran Champie	Free Geek
Sabrina Gogol	Metro
Andrew Keough	N/A (member of the public)
Sophie Wimberley	Reverse Logistics Group
Denise Barnes	Rogue Disposal & Recycling
Daven Stetson	St Vincent de Paul of Lane County
Ray Zielke	Universal Recycling Technology

Program timeline



Questions?



Proposed rule concept discussion

Topic 1: Manufacturer financing of program

Topic 2: Electronics producer responsibility organization fees



Oregon Department of Environmental Quality

Oregon E-Cycles Modernization: Rule Concepts Rulemaking Advisory Committee Meeting 3

Overview

For the third committee meeting, DEQ is seeking the committee members' feedback on rule concepts related to:

- Manufacturer financing of electronics producer responsibility programs; and
- Electronics producer responsibility organization fees.

DEQ is also providing proposed rule language in this meeting packet. The proposed rule language includes changes to existing administrative rules based on rule concepts discussed in previous committee meetings.

Topic 1: Manufacturer financing of program

Overview

- Program costs are apportioned among manufacturers based on “manufacturer obligations”
- PRO or coordinating body calculates manufacturer obligations



Topic 1: Manufacturer financing of program

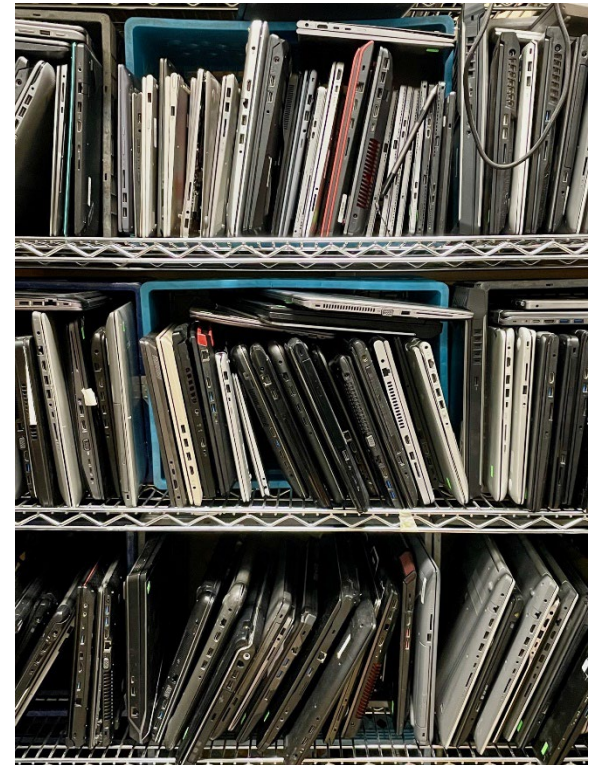
Manufacturer obligation based on two variables:

1. Market share data from previous year (provided by DEQ to PRO or coordinating body)
2. Each product category's percentage of weight of all product categories recycled in previous year

Topic 1: Manufacturer financing of program

Rule Concept: Market Share Process

- Preliminary market share
- 30-day change request
- Final market share



Topic 1: Manufacturer financing of program

Rule Concept: Manufacturer Obligation Calculation

- PRO or coordinating body shall use weight of devices recycled in an electronics producer responsibility program in previous year
- If devices were not eligible for recycling, PRO or coordinating body may use national sales data, consumer research, sampling, or other data; reconciliation in subsequent years

Topic 1: Discussion

Rule Concepts:

- Market share process
- Manufacturer obligation calculation

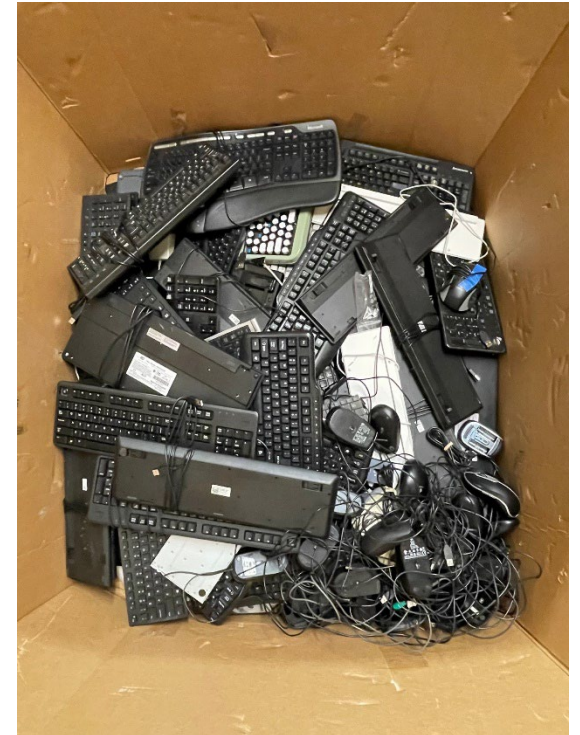


Topic 2: PRO fees

Overview

Statute requires:

- One-time plan review fee
- Annual fee



Topic 2: PRO fees

Rule Concept: Plan review fee

- \$75,000
- A PRO must pay fee before submitting initial plan

Topic 2: PRO fees

Rule Concept: Annual Fee

- \$315,000
- DEQ may reduce annual fee in a given year
- Will split equally among number of PROs
- Annual fee due the later of
 - June 1 of each year; or
 - 30 days after DEQ sends invoice

Topic 2: Discussion

Rule Concepts:

- Plan Review Fee
- Annual Fee



Draft rules overview

Proposed draft rules in Oregon Administrative Rules

- Chapter 340, Division 98
- Chapter 340, Division 12

Please refer to rule packets for all proposed changes.

Draft rules overview

Existing E-Cycles rules

- OAR 340-098-0100 to 340-098-0200
- Propose to remain in effect through Dec. 31, 2025



State of Oregon Department of Environmental Quality

Draft Rules – Edits Highlighted

E-Cycles 2024

Key to Identifying Changed Text:

~~Deleted Text~~

New/inserted text

~~Text deleted from one location~~ - and moved to another location

Division 98

MATERIALS MANAGEMENT: PRODUCT STEWARDSHIP PROGRAMS

340-098-0000

Applicability

(1) OAR 340-098-0000 to ~~OAR 340-098-0200~~ OAR 340-098-0270 apply to ~~manufacturers of covered electronic devices sold or offered for sale in the State of Oregon for calendar years 2012 and beyond~~ clarify requirements regarding

Draft rules overview

New rules include:

Topic	Oregon Administrative Rules
Definitions for additional terms	OAR 340-098-0010
PRO fees	OAR 340-098-0230
Program plan content	OAR 340-098-0235
Environmentally sound management practices	OAR 340-098-0240
Fair financial compensation	OAR 340-098-0245
Annual report content	OAR 340-098-0250
Coordinating body	OAR 340-098-0255
Product categories	OAR 340-098-0260
Market share and manufacturer obligation calculation	OAR 340-098-0265, 340-098-0270

Draft rules overview

Environmentally sound management practices (OAR 340-098-0240):

- Goes beyond ensuring legal compliance in management of electronic materials
- Oregonians expect E-Cycles to deliver environmental outcomes and reduction of environmental impacts while protecting health, safety, and data privacy

Draft rules overview

Environmentally sound management practices (OAR 340-098-0240):

- Covered electronic device materials will not be exported to countries not authorized by treaty or regulations to accept such materials
- Prioritize reuse over recycling and recycling over disposal
- PROs must be able to track materials and processing used to final disposition

Draft rules overview

Environmentally sound management practices (OAR 340-098-0240):

- Clarifies types of audits and inspections
- Use of tracking devices
- DEQ can approve variances from practices and standards
 - Example: use of certification programs

Draft rules overview

Fair Financial Compensation:

- Program plan content:
 - Offering rates necessary to ensure collection site participation in required areas;
 - Offering comparable rates in similar geographic areas
- DEQ may conduct study on compensation; may evaluate
 - Real costs
 - Compensation among geographic areas
 - Trends
 - Alternative forms of compensation

Draft rules overview

Product categories (OAR 340-098-0260):

No.	Includes
1	Computers and small-scale servers
2	Monitors, printers, scanners, and fax machines
3	TVs
4	Portable digital music players, DVD players, DVD recorders, videocassette recorders, video game consoles, digital converter boxes, cable receivers, satellite receivers, routers, modems
5	Peripherals

Draft rule: Discussion

New rules include:

Topic	Oregon Administrative Rules
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Fiscal impact, racial equity, and EJ

DEQ seeks:

- Committee's recommendation on fiscal and economic impact of the proposed rules
- Input on Racial Equity Statement
- Input on Environmental Justice Considerations



State of Oregon Department of Environmental Quality

Draft Fiscal Impact Statement

Modernizing E-Cycles 2024 Rulemaking

Introduction

The Oregon Legislature adopted HB 3220 in 2023, which modernizes and updates the statewide program for electronics collection and recycling. Known as Oregon E-Cycles, this program follows an extended producer responsibility model, a waste management strategy that requires producers to share in the responsibility for the end-of-life management of their products and materials. Typically, manufacturers will designate

Fiscal Impact Statement

DEQ seeks committee recommendation on:

1. Will the proposed rules have a fiscal impact?
2. If so, what is the extent of the impact?
3. Will proposed rules have a significant adverse impact on small businesses?
 - If so, how can DEQ reduce that impact?

Fiscal Impact Statement

1. Will the proposed rules have a fiscal impact?

Yes, the proposed rules would have a fiscal impact

- PRO fees
- Product categories
- Fair financial compensation
- Environmentally sound management practices, and collection site standards

Fiscal Impact Statement

1. Will the proposed rules have a fiscal impact?

Likely will impact:

- PROs, which will apportion costs among manufacturers
- Manufacturers, which will share costs with other manufacturers
- Some rules may impact collection sites and processors – but costs are covered by PROs and participation is voluntary

Fiscal Impact Statement

2. If so, what is the extent of the impact?

- PRO fees: likely a small percentage of program costs
 - One-time plan review fee of \$75,000
 - Annual fee of \$315,000
- For comparison: WA electronics recycling program reported \$4.9 million in operational costs for 2022

Fiscal Impact Statement

2. If so, what is the extent of the impact?

- State agencies: N/A
- Local governments: impact if participating as collector
- Public: potential impact if manufacturer passes on program costs; however:
 - E-Cycles has operated for 10+ years
 - Other states have electronics recycling programs
 - Some manufacturers may not pass on program costs

Fiscal Impact Statement

2. If so, what is the extent of the impact?

- Large businesses: impact if participating as manufacturer, processor, collector, or PRO
 - Manufacturers: will share costs with other manufacturers; may have multiple PROs to choose from
 - Processors and transporters: costs are covered by PRO; participation is voluntary
 - Collectors: costs are covered by PRO; participation is voluntary
 - PROs: may have increased administrative costs; funded by manufacturers

Fiscal Impact Statement

3. Will proposed rules have a significant adverse impact on small businesses?

– If so, how can DEQ reduce that impact?

- Small business manufacturers, PROs, transporters, processors, collectors: likely same impacts as described for large businesses
- DEQ estimates a small number of small business will be impacted
- Manufacturers: statute exempts manufacturers selling fewer than 50 covered electronic devices in Oregon during previous year.
- Small business collection sites: costs will be covered; participation is voluntary.

Fiscal Impact Statement

3. Will proposed rules have a significant adverse impact on small businesses?

– If so, how can DEQ reduce that impact?

- Examples of impact: administrative costs, supplies for managing devices
- Costs covered by PRO, which is funded by manufacturers
- DEQ appointed prospective PROs, representatives of manufacturers, and other committee members to advise DEQ on cost of compliance for these entities, including small businesses

Fiscal Impact Statement

Questions for committee:

1. Will the proposed rules have a fiscal impact?
2. If so, what is the extent of the impact?
3. Will proposed rules have a significant adverse impact on small businesses?
 - If so, how can DEQ reduce that impact?

Housing cost

ORS 183.534 requires DEQ to evaluate whether proposed rules would have an effect on the development cost of a 6,000-square-foot parcel and construction of a 1,200-square foot detached, single-family dwelling on that parcel.

DEQ determined proposed rules would have no effect on development costs. Proposed rules relate to the implementation of the legislatively-approved producer responsibility program for electronic devices. These proposed rules are intended to give clarification to implementation and other requirements for such programs.

Racial equity statement

ORS 183.335(2)(a)(F) requires agencies to provide a statement identifying how adoption of the rule will affect racial equity in this state.

DEQ seeks committee input on DEQ's racial equity statement.

Racial equity statement

- Proposed rules will assist DEQ in carrying out its required responsibilities, including reviewing a producer responsibility organization's plan and ensuring it implements a program equitably for all residents in Oregon.
- The E-Cycles program moves devices through a responsible system at end of life and ensures all residents have access to the program. Overall, the program and its proposed rules would likely have an overall benefit to community members.
- At this time, DEQ has not identified specific actions or outcomes from proposed rules that would substantially burden a person or community based on the racial demographics of that person or community.

Environmental justice: Discussion

ORS 182.545 requires natural resource agencies to consider the effects of their actions on environmental justice issues.

What considerations or additions does the committee suggest?

Environmental justice considerations

- Maintain or increase the standards of environmentally sound management practices from collection through processing of covered devices.
- Ensure DEQ will be able to provide thorough administration and enforcement of the statute and these rules.
- As program plans are approved and the modernized program begins, DEQ will use its oversight authority to identify any potential changes or effects of these rules.

Next steps

- Notice of rulemaking – Sept.
 - Formal public comment period
 - Public hearing
- Stay informed
 - Visit the [E-Cycles rulemaking website](#)
 - Sign up for [GovDelivery email alerts](#)



Title VI and alternative formats

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