



Oregon

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November 8, 2024

Jeffrey Fieklow
Chief Executive Officer
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20 F Street NW, Suite 700
Washington D.C., 20001

Dear Mr. Fieklow:

Thank you for submitting Circular Action Alliance's second draft producer responsibility program plan (Plan) to the Oregon Department of Environmental Quality on September 27, 2024, for the development and implementation of a producer responsibility program for packaging, printing and writing paper, and food serviceware in Oregon under Senate Bill 582 of 2021 (Act). Pursuant to the Act, as part of DEQ's plan review process, DEQ offered a public comment period on the Plan and consulted with the Oregon Recycling System Advisory Council. The Recycling Council is an advisory committee created by the Act to advise DEQ and the producer responsibility organization(s) on implementation of the Act, including program plan review. The public comments received and a summary of the Recycling Council's input on the Plan are available on DEQ's [website](#).

This letter and its attachments comprise DEQ's official response to the second draft plan pursuant to ORS 459A.878(1).

DEQ finds that the second draft makes considerable progress, and particularly commends CAA for its thoughtful and novel work on a verification standard for responsible end markets, and on a life cycle assessment-based approach to ecomodulation. DEQ continues to be confident in CAA's ability to ultimately produce a revised version of the Plan that meets all requirements and launch the program by July 1, 2025.

After reviewing the Plan and considering input received through public comments and the Council, DEQ rejects the second draft proposed Plan. DEQ requests that CAA submit an updated version on December 6, 2024, or within the statutory maximum of 60 days allowed for making the revisions. DEQ's rationale for rejecting the Plan, including recommendations for improving the Plan in subsequent drafts, is laid out in Appendix A. Additional supporting documentation is located in confidential Appendix B, which responds to Plan content that CAA claimed as confidential at the time of submission.

DEQ reviewed and approved 18 sections of the Plan individually, as detailed in Appendix A and summarized below. Note that overall Plan approval is contingent upon DEQ's approval of all sections.

- Ten sections are approved or conditionally approved; those pertaining to: 1. program goals, 2. PRO description and qualifications, 3. depot collection targets, 4. proposed

additions to the USCL, 5. Specifically Identified Materials, 6. plastics recycling rate, 7. responsible end markets, 8. the materials management hierarchy, 9. education and outreach, and 10. material categorization for the producer fee schedule. Related to conditionally-approved sections, CAA may revise the content to align with DEQ's approval conditions, and then the sections will be considered approved upon resubmission. Note that substantial changes to conditionally-approved sections that are not aligned with the DEQ conditions of approval would initiate another full review of those sections.

- The other eight sections are not approved; those pertaining to 1. System expansion, 2. transportation reimbursements, 3. additional local government funding, 4. convenience standards, 5. performance standards, 6. financing, 7. equity, and 8. management and compliance. As expected, all eight of these sections either were not updated in Draft 2 or included substantial portions that were not updated. These sections are awaiting inputs from CAA's system costing survey, the Oregon System Recycling Optimization Plan, completed in early October. CAA will revise the content of these sections in Draft 3, incorporating feedback from DEQ, the Recycling Council, and the public. As you know, ORS 459A.878 provides a PRO opportunities to submit up to three drafts in the review process.

DEQ appreciates CAA's continued work and looks forward to working together on this new and exciting program for extended producer responsibility in Oregon.

Sincerely,



Nicole Portley
PRO Program Plan Lead
Recycling Modernization Act
Oregon DEQ

Attachments

Appendix A: DEQ recommendations on CAA program plan components

Appendix B: Confidential DEQ recommendations on CAA's Appendix G

Appendix A: DEQ recommendations on CAA program plan components

There are 18 total components in the plan requiring approval for DEQ to approve the entire plan. Section approval decisions apply at the bolded, numbered, plan component level rather than at the subcomponent/subsection level. Approval and rationale/recommendation entries at the subcomponent level are for an informational purpose. Subcomponents listed with asterisks indicate subcomponents that are also considered in review/approval of the Equity section.

Required or Guidance Plan Component	Statute or Rule Citation	Plan Section(s)	Section(s) approved? (yes, no, conditionally)	DEQ rationale/recommendation	Parties that submitted similar or related feedback⁺
Inclusion of an executive summary.	n/a	Executive Summary, pg 5-12	n/a	The current structure and content of the executive summary is acceptable; DEQ recommends that CAA continue in its third draft to integrate updates into this section to reflect all substantial additions and edits made to the plan’s main body.	
1. Overarching goals for the program plan that are as objective and measurable as possible.	ORS 459A.875(2)	Goals of the Program, pg 13-17	Conditionally	<p>CAA has improved this section to better align with goals of the statute and to enable improved measurement of progress.</p> <p>Approval of this section is conditional upon:</p> <ul style="list-style-type: none"> • Goal 1, Objectives 1 & 2: The same outcome of reducing impacts through ecomodulation appears for both Objective 1 and Objective 2, but is more directly relevant to Objective 2. Delete it from Objective 1. • Goal 1, Objective 1: Add an outcome and metric(s) to fulfill the hierarchy requirement, i.e., ORS 459A.896(2)(b). <ul style="list-style-type: none"> ○ DEQ suggests the following outcome: “Oregon-origin materials for which environmental impacts can be maximally reduced through choice of market or market development actions flow to low-impact/high-benefit markets.” ○ DEQ suggests the following metrics for this outcome: “Number of materials identified for which impacts of disposition pathways differ meaningfully from one another” and “Percent of these materials assessed for 	<p>ORSAC recommended the use of metrics to track outcomes of the ecomodulation bonuses (specifically, the number of design changes incentivized through the substantial impact reduction bonus).</p> <p>ORSAC recommended that CAA develop meaningful metrics and measures for continuous improvement related to equity within Oregon’s modernized recycling system, such as the market share of COBID-eligible businesses .</p>

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				<p>compliance against and ultimately complying with the hierarchy disposition requirement.”</p> <ul style="list-style-type: none"> • Goal 1, Objective 2: Edit the metrics wording so as to monitor the “quantity and type of impacts reduced through ecomodulated fee incentives” (as opposed to the number and type), and to additionally track the number of bonuses awarded and number and profile (e.g. large, small) of producers that have qualified for bonuses over time. • Objective 2, Part 1: Make the goal of meeting the convenience standards timebound by adding a deadline and interim milestones. • Objective 3: The metrics could use additional consideration to make them most meaningful; currently most of the metrics involve tracking the “numbers and kinds” of various offerings (e.g. recycling services and system expansions for underserved populations, education materials, communications channels, audiences reached, etc.). It would be more holistic to also include metrics focused on the size and scope of the investment in equity being made (e.g. proportion of contracts, and contract dollars, that go to COBID firms, absolute amount of contract dollars awarded to COBID firms, etc). 	
2. Prospective PRO Description and Qualifications.		<ul style="list-style-type: none"> • Application pg 1-2 • About Circular Action Alliance, pg 18-22 • Appendices B, C, and H-L, pg B9 – L76 	Conditionally	These sections remain conditionally approved, pending details on the Oregon Board slated for addition in Draft 3, as well as updates to the member producer list and market share estimate.	(Public comment was closed on this section in Draft 2 review due to conditional approval of Draft 1 content)
Contact information for the prospective PRO.	ORS 459A.875(2)(b)	Application pg 1-2	Yes	CAA provided its contact information in the application form on page 1.	
A description of the structure of the producer responsibility organization, including the management structure, the	ORS 459A.875(2)(c)	<ul style="list-style-type: none"> • Description of the Org, pg 14-15 • Appendix C: CAA Org Structure, pg C15-18 	Conditionally	(Draft 1 feedback still stands) Add more details/commitments on pg 15 with respect to the Oregon Board—i.e., replace “intends to establish” with “will establish” or “has established,” and indicate the Board membership or how it will be determined.	FPI and OWA-OWC-WI made queries with respect to Board membership.

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PRO's board and roles and functions of committees.				CAA indicated on pg 19 that details regarding the Oregon Board will be provided in Draft 3.	
The prospective PRO's qualifications (both to serve as a PRO in Oregon's system overall and to carry out particular interim coordination tasks).	OAR 340-090-0680(1)(b)(A)	<ul style="list-style-type: none"> • CAA's Qualifications to Serve as a PRO in Oregon, pg 18-19 • Understanding of OR's RMA, pg 19-20 • Team Expertise and Capabilities, pg 20 • Qualifications to Deliver Interim Coordination Tasks pg 21 • Appendix C: CAA Org Structure, pg C29-31. 	Yes	CAA sufficiently addressed DEQ's Draft 1 feedback by adding a listing of seven Oregon-based hires made thus far on pg 20 and by updating the organization chart in Appendix C to depict these positions.	
Any other information required by the department to determine that a producer responsibility organization is capable of meeting its obligations and ensuring the outcomes required under ORS 459A.860 to 459A.975.	ORS 459A.875(2)(q)				
The prospective PRO's current producer membership (include here information on the likelihood of achieving the 10% minimum market share threshold to operate as a PRO in Oregon).	ORS 459A.875(2)(b) and OAR 340-090-0680(1)(b)(C)	<ul style="list-style-type: none"> • CAA's Producer Membership, pg 22 • Appendix B, List of Member Producers and Market Share Calculation, pg B9-28 	Conditionally	<p>DEQ appreciates the updates made to these sections in draft 2 and the continued progress reflected in recruitment of member producers and capture of market share.</p> <p>DEQ asks that CAA again in Draft 3 update the producer list in Appendix B to reflect new members added in October-November and update the market share calculation in Appendix B to represent the latest estimate.</p>	
Information regarding the adequacy of the prospective PRO's access to financial resources (i.e., to carry out assigned interim coordination tasks).	OAR 340-090-0680(1)(b)(B)				
3. An Approach to Prioritize, Schedule and Fund Eligible Costs From the Needs Assessment Pertaining to System Expansions and Improvements.	ORS 459A.875(2)(a)(A) and (C), (2)(o)-(p); OAR 340-090-0790(1);	System Expansions and Improvements, pg 25-32	No	<p>This section was not updated in Draft 2, and as such DEQ's recommendations from Draft 1 remain in force.</p> <p>Those requirement-specific recommendations follow below, with some additions marked in italicized text.</p>	<p>(Public comment was closed on this section in Draft 2 review because it was not updated)</p> <p>ORRA asked for service providers to be referenced alongside</p>

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	and OAR 340-090-0810(1)(a)			<i>In this and other sections pertaining to collection and recycling of the USCL, DEQ recommends looking at all excerpts where “local governments” are referenced and considering where appropriate to add “and their service providers.”</i>	local governments in multiple sections of the plan.
A schedule for implementing collection program expansions and improvements throughout the state.	OAR 340-090-0790(1)(a)	<ul style="list-style-type: none"> • Proposed Timeline, pg 27-28 • Initial Outline for Disbursement of Local Government System Expansions, pg 28 • Revised Local Government Funding Schedule, pg 28-29 • Start-Up Approach for Time-Sensitive Tasks, pg 41-42. 	No	<p>Specify in the timeline on pg 27-28 that all eligible costs will be funded by end of 2027.</p> <p>Add to either of Table 1 or Table 2 on pg 28-29 the <i>schedule</i> and estimated system expansion disbursements for each local government. <i>Also, clarify the timing of negotiations that will occur prior to disbursements, in both the section regarding the service expansion and the section regarding approach to time-sensitive tasks. Ensure that the information presented in both sections lines up with one another.</i></p>	ORSAC also indicated the need for estimated reimbursements per local government to be added to the plan.
The proposed approach for funding eligible costs identified in the needs assessment in a way that upholds the prioritization laid out in rule, with funding offered to local governments in higher tiers of priority before it is offered to local governments in lower tiers of priority.	OAR 340-090-0790(1)(b)	<ul style="list-style-type: none"> • Revised Local Government Funding Schedule, pg 28-29 • Assessing Priority of Funding Requests, pg 20 • Evaluation of Funding Requests, pg 30 • Proposed Review Criteria, pg 30-31 	No	Expand Table 2 on pg 29 to show how each funding request has been categorized by its priority.	
A description of how the use of existing infrastructure will be maximized.	ORS 459A.875(2)(a)(C)	<ul style="list-style-type: none"> • Proposed Review Criteria, pg 30-31 	No	<p>CAA indicated on pg 30 “Support for Existing Services and Infrastructure” as a review criterion for its follow-up needs assessment, the Oregon Recycling System Optimization Project (ORSOP). Summarize how CAA applied this criterion to develop a plan for system expansion that makes maximum use of existing infrastructure. Provide data on anticipated use of existing infrastructure across the state, draw out particular on-the-ground examples, or do both.</p>	ORSAC also requested this detail be added.

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<p>The estimated amount of funding to be disbursed, overall.</p> <p>The estimated amount of funding to be disbursed to individual local governments.</p>	OAR 340-090-0790(1)(e) and (2)(b)	<ul style="list-style-type: none"> Initial Outline for Disbursement of Local Government System Expansions, pg 28 Revised Local Government Funding Schedule, pg 28-29 	No	<p>Update the amounts per year spent on system expansion in Table 1 on pg 28, replacing the ranges with singular estimates.</p> <p>Integrate estimates of system expansion expenditure per local government into this section.</p>	ORSAC feedback aligns with DEQ's here.
A method for determining funding or reimbursement amounts under ORS 459A.890(5)	OAR 340-090-0790(1)(d) and OAR 340-090-0810(1)(a) (A)	<ul style="list-style-type: none"> Evaluation of Funding Requests, pg 30 Proposed Review Criteria, pg 30-31 Accountability Mechanisms, pg 32 	No	On pg 31 CAA indicated that efficiency measures "may be developed for considering applications for funding." That implies that CAA either intends to offer additional (non-statutorily required) funding, or intends to apply some screening criteria to its statutorily-mandated funding requirements. Please clarify and provide more detail.	
A process, including the process timeline, for how the producer responsibility organization will resolve any disputes involving compensation of local governments and local governments' service providers under ORS 459A.890(5).	ORS 459A.875(2)(e)	<ul style="list-style-type: none"> Dispute Settlement Process relating to Service Expansion Funding Requests, pg 31-32 	No	The approach for dispute settlement described on pg 31-32 involves CAA convening a multistakeholder working group that will confirm types of expenses eligible for compensation. Such a working group may serve a useful purpose, but statute requires the program plan to lay out a clear pathway, including a timeline, for effective resolution of conflicts; the working group proposal is insufficient to meet this requirement.	
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.	OAR 340-090-0810(1)(a) (B)	<ul style="list-style-type: none"> Accountability Mechanisms, pg 32 	No	Add a description of the proposed approach to invoicing and accountability, informed through the ORSOP survey, to the next draft of the plan.	ORSAC would like to see sample invoice forms included in a subsequent draft.

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4. Methods for calculating and reimbursing transportation costs	OAR 340-090-0780 and	<ul style="list-style-type: none"> • Transportation Reimbursements, pg 32-38 	No	<p>This section was not updated in Draft 2, and as such DEQ’s recommendations from Draft 1 remain in force.</p> <p>Those requirement-specific recommendations follow below.</p>	(Public comment was closed on this section in Draft 2 review because it was not updated)
Methods for advance funding and reimbursements to local governments, a local government’s service provider or other person authorized by the local government to receive transportation reimbursements.	ORS 459A.875(2)(o)	<ul style="list-style-type: none"> • General Model, pg 33-34 • Registration of Claimants, pg 34-35 • Timing of Submissions and Reimbursements, pg 35 • Claims Submission Content, pg 35-36 • Timing of Payments, pg 36 	No	<p>The proposed method entails, per pg 34, pre-approval of eligible shipments. This has the potential to slow down shipments and disrupt operations, unless CAA can guarantee near-instantaneous review and approval of requests.</p> <p>Describe how the proposed approach will balance the need for efficiency with the need for adequate oversight.</p>	Concerns about potential inefficiencies in pre-approval were voiced by ORRA in public comment and by ORSAC.
A process, including the process timeline, for how the producer responsibility organization will resolve any disputes involving compensation of local governments and local governments’ service providers under ORS 459A.890(2).	ORS 459A.875(2)(e)	<ul style="list-style-type: none"> • Dispute Settlement Process, pg 36 	No	<p>CAA indicated on pg 36 that, in the case a CRPF rejects a transported load due to contamination, the transporter shall incur all costs associated with the load, which will not be eligible for reimbursement from CAA.</p> <p>Provide additional detail here—for example, proposed standards for load rejection accepted across participating CRPFs—to ease local government and service provider concerns with respect to financial liabilities due to the risk of load rejection.</p> <p>See comments above related to dispute resolution for system expansion requests – they are also applicable to dispute resolution for transportation reimbursement.</p>	ORRA sought more clarity on load rejection.
Methods for calculating reimbursement amounts for transportation costs in accordance with established requirements, including:	OAR 340-090-0780(1)	<ul style="list-style-type: none"> • General Model, pg 33-34 • Establishing Standard Rates, pg 35 • Voluntary Transportation Option, pg 37 	No	CAA proposed to use standardized rates per ton per mile for these reimbursements. DEQ has concerns with this approach, which could penalize rural communities, especially those distant from the major trucking corridors (I-5 and I-84, Hwy 97).	ORSAC recommended weighing the proposed method (standardized rates per ton per mile) against a zoned approach with geographic

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		<ul style="list-style-type: none"> Opportunities for Efficiency and Effectiveness, pg 37-38 		Indicate how CAA will address possible rural inequity related to transportation reimbursements.	differentiation of transportation costs
an approach for enabling fluctuations in input costs, such as fuel, to automatically factor into the reimbursement amounts over time;	OAR 340-090-0780(1)(a)	Establishing Standard Rates, pg 35	ORRA and ORSAC are also seeking this detail.	The intent to account for fluctuations in input costs in the reimbursement rates is noted, but the approach to doing so is not described in detail. Provide the calculation methodology, including data sources, and the process/schedule for updating standard rates per mile.	ORRA and ORSAC are also seeking this detail.
a voluntary option that allows local governments or service providers and a producer responsibility organization to agree to transfer some or all transportation responsibilities to the producer responsibility organization or coordinating body;	OAR 340-090-0780(1)(b)	Voluntary Transportation Option, pg 37	Yes	CAA proposed to provide such an option on pg. 37.	
a means of accounting for proximity to an appropriate commingled recycling processing facility or responsible end market that has capacity to process or recycle the material and other factors that could affect transportation costs;	OAR 340-090-0780(1)(c)	Proposed Method for Calculating Transportation Costs, pg 33-37	No	A general methodology is laid out in page 33-35 and it accounts for multiple factors (different loads including mixed loads, distances), but it is silent on how CAA will determine whether a closer facility (that a community bypasses) has “capacity.” Update this section to explain how facility capacity will be assessed.	
a description of the mandatory consultations with local governments and service providers that informed the development of the methods; and	OAR 340-090-0780(1)(d)	Consultation Process, pg 33	No	CAA conducted preliminary consultations that informed its approach, but planned to consult about detailed methods later as part of the ORSOP. List Local Governments and Service Providers consulted across the state and describe the feedback received.	
a description of opportunities that were identified for increasing	n/a	Material Compaction, pg 37-38	n/a	The section entitled “Material Compaction” on pg 37-38 addressed this issue; however, it did not clearly state what options for compaction will be	ORRA and ORSAC requested additional clarity on this section.

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efficiency and achieving full transport loads (e.g. an approach for balancing the environmental benefits of transportation efficiency with the environmental impacts of baling)				allowed/disallowed or incentivized/disincentivized. Enhance this section with these details.	
5. Approaches to Additional Reimbursement and Funding for Local Governments	ORS 459A.875(2)(o)	Additional Reimbursement and Funding for Local Governments, pg 38-41	No	This section was not updated in Draft 2, and as such DEQ's recommendations from draft 1 remain in force. Those requirement-specific recommendations follow below.	(Public comment was closed on this section in Draft 2 review because it was not updated)
Methods for advance funding and reimbursements to local governments, a local government's service provider or other person authorized by the local government to receive funding for contamination reduction.		Contamination Reduction Programming, pg 38-39	No	Break this into two subsections, funding for contamination evaluation (ORS 459A.890(3)) and funding for contamination reduction programming (ORS 459A.890(4)). Also update the approaches proposed to account for rulemaking 2 rules.	
A method for estimating and reimbursing the possible additional costs of local government compliance with ORS 459A.908 (the requirement that all roll carts purchased after January 1, 2026, must contain at least 10% post-consumer recycled content).	ORS 459A.890(6)	Ensuring 10% Post-Consumer Content in Roll Carts, pg 39-40	No	Provide more detail here on the specific requirements for local governments to make claims for payment to cover the possible price premium between 10%+ PCR content roll carts and virgin-material carts. Consider incentivizing local governments' use of consistent container colors (blue for commingled recycling, orange for glass, gray/black for glass, green for compost).	Incentivizing or recommending LG use of consistent colors was recommended by ORSAC and Metro.
Any additional funding to local governments or other measures for the purpose of protecting ratepayers from increased costs.	ORS 459A.875(2)(k)	Measures to Protect Ratepayers from Increased Costs, pg 40-41	No	CAA's proposal on page 41 to provide local governments with an annual summary of RMA funding in relation to materials collected in their jurisdictions could enable local governments to consider the funding when conducting ratepayer reviews. Some local governments have expressed interest in more frequent access to additional information from the PRO, such as monthly	

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				transactional data for inbound loads of commingled recyclables received by the processing facilities. Update this section after consultation with local governments about CAA’s potential to provide them more detailed and frequent information.	
6. Methods for achieving convenience standards by supporting and expanding existing collection points and by creating new collection points, including:	ORS 459A.875(2)(a)(B), 459A.896(1), and OAR 340-090-0640	<ul style="list-style-type: none"> • Proposed Approach to Achieving Convenience Standards, pg 43-51 • Appendix D, Stakeholder Engagement, pg D33-34 • Appendix F: PRO Depot Lists and Coverage, pg F40-48 	No	<p>These sections were not updated in Draft 2, and as such DEQ’s recommendations from draft 1 largely remain in force. Those recommendations follow below, with some additions, mostly related to cross-referenced content from the Equity section of the plan, marked in italicized text.</p> <p>DEQ recognizes that CAA’s proposal to fulfill the convenience standard is not yet fully-developed, pending results of outreach to existing depots and other potential collaborators through ORSOP. While DEQ is amenable to finer details of this section awaiting CAA’s third draft submission, DEQ is concerned with the current proposal’s general directionality—i.e., CAA is pursuing approaches that may be insufficient to meet the convenience standards.</p> <p>In the next draft of the plan, please 1. ensure and communicate a holistic understanding of what is required by the convenience standards, and 2. describe how any proposal for alternative compliance would meet existing and proposed criteria in rule language at OAR 340-090-0640(6).</p> <p>In its third draft of the plan, CAA should reflect the results of its broad outreach through ORSOP, including partnerships that can collectively deliver a program that meets the standards. The updated draft should also reflect comprehensive research of Oregon facilities that may meet the definition of “existing depot,” which can be demonstrated through an updated existing depot list in Appendix F.</p>	(Public comment was closed on these sections in Draft 2 review because it was not updated)

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				<p>(With respect to ensuring and communicating an understanding of the requirements) Amend areas of the plan where the convenience standard is mis- or underrepresented, such as:</p> <ul style="list-style-type: none"> The infographic and bulleted list on pg 44 is not entirely aligned with OAR 340-090-0640. The convenience standard requires collection points for materials on the “enhanced” list in cities with populations of 4,000 (outside the Metro region) and 8,000 (within the Metro region). <i>It requires an additional collection point for every additional 40,000 residents. And additional collection points are based on population and location of the city and county.</i> On pg 45 CAA suggests that by offering collection of basic materials at existing depots, it is going beyond the convenience standards. That is not the case – the requirement to contract with existing depots where possible to collect all PRO materials must be met; doing so is not going beyond requirements. <p>See further recommendations on nested requirements below with respect to application of the “existing depot” definition, development of collaborations, and alternative compliance.</p>	
a description of how the prospective PRO will uphold the requirement to contract, where possible, with existing depots or drop-off centers;	ORS 459.875(2)(a)(B) and ORS 459A.896 (1)(a)	Network Analysis and Mapping, pg 45-46	No	<p>CAA noted on pg 45 that, as a part of the ORSOP work in Apr-Aug 2024, “permitted DEQ facilities and existing local government depots will receive no less than two specific and direct requests to consider joining the PRO depot network.”</p> <p>DEQ appreciates CAA’s intent to reach to all existing facilities, including tribal facilities (as noted on pg 160), as part of ORSOP, and considers that general approach to be sound. However, note that there are no “DEQ-operated facilities.” Also, the definition of “existing recycling depot” at OAR 340-090-0640(1)(a) is broader than facilities permitted by DEQ</p>	ORRA sought clarity on how existing depots are being identified.

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				<p>and existing local government depots, and encompasses some “refuse-related locations” that CAA refers to on pg 45 as possible partners to meet convenience standard gaps after all “existing depots” are contracted with.</p> <p>Include all facilities meeting the “existing depot” definition in the gap analysis.</p> <p>Confirm that CAA will follow OAR 340-090-0640(1)(a) and reach out to all existing recycling depots as defined in rule. Consider adding a bulleted list in the plan’s main body representing a diversity of locations that meet the definition of “existing depot.” Also, provide a comprehensive list of existing depots in an updated Appendix F and indicate which facilities voiced interest in collecting PRO materials, <i>as well as those that have declined to partner.</i></p>	
Inclusion of a list of existing depots, with indication of those that are possible and not possible to contract with;	ORS 459.875(2)(a)(B) and ORS 459A.896(1)(a)	Appendix F: PRO Depot Lists and Coverage, pg F40-48	No	<p>Appendix F is difficult to follow. It could be improved by:</p> <ul style="list-style-type: none"> • Confirming that Tab 1 consists of sites that meet the “existing depot” definition in rule at OAR 340-090-0640(1), and distinguishing those that are possible to contract with from those that are not. • Moving events out of Tab 1; they could appear in a separate Tab. • Summarizing results of Tab 1 by city and county (number of existing depots that are possible to contract with in each city and county). • Including the summarized results of Tab 1 into the relevant rows of Tabs 2 and 3 (i.e., the numbers of existing depots per county and city), so that the reader sees multi-material collection points required and existing depots in a jurisdiction side by side. Consider highlighting the rows where the required number of multi-material collection points exceeds the quantity of 	<p>GPI sought more information on the depot system and proposed locations.</p> <p>ORSAC recommended updating Appendix F to show which depots have agreed to collaborate.</p>

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				<p>existing depots. Consider deleting the “Meets Base” and “Meets Enhanced” columns.</p> <ul style="list-style-type: none"> • Clarifying what is represented in the column “Population Covered by Existing Sites” and considering applying this column differently so that it is responding to a specific requirement of the convenience standard (for example, the requirement that 95% of Oregon residents live within 15 miles of a collection point for each material). • Adding a Tab 4 where the plan for addressing those cities and counties that cannot meet the convenience standard through existing depots alone are given further treatment. It should be clear from this table, how CAA is proposing to meet the convenience standard in each of these jurisdictions (i.e., establishment of new depots, return-to-retail for specific materials, collection events or on-route collection to stand in for a certain number of required collection points, etc). 	
Inclusion of tribal depots among the list of “existing depots” and pursuit of efforts to contract with those depots.*	ORS 459A.875(2)(a)(B) and OAR 340-090-0640(1)(a)(C)	<ul style="list-style-type: none"> • Equity in the Establishment of a PRO Depot Network, pg 160 • Appendix F: PRO Depot Lists and Coverage, pg F40-48 	Conditionally	<p><i>DEQ supports CAA’s identification of two existing depots operated by Tribal nations and efforts to contract with those depots for collection of PRO Recycling Acceptance list materials. In Draft 3 DEQ will look out for an update in terms of whether or not such contracting is on track to go ahead, and whether or not any other depots operated by Tribal nations have been identified.</i></p>	
identification of key collaborators that the prospective PRO plans to contract with, including community-based organizations and minority-owned/operated businesses;*	n/a (unless an entity meets the “existing depot” definition at 340-090-0640(1)(a))	<ul style="list-style-type: none"> • CAA’s Proposed Approach to Equity, pg 159-160 • Equity in the Establishment of a PRO Depot Network, pg 160 • Appendix D, Stakeholder Engagement, pg D33-34 	No or n/a	<p><i>DEQ acknowledges modest progress between drafts 1 and 2 in terms of CAA having consulted with additional CBOs regarding potential to collaborate on collection of the PRO Recycling Acceptance List (the Arc, Ground Score, and St. Vincent de Paul have been added to the consultation list in Appendix D). In Draft 3 DEQ will look for the following update:</i></p> <ul style="list-style-type: none"> • <i>Have any CBOs been identified that operate facilities that meet the definition of “existing</i> 	ORSAC recommended including a specific and consolidated list of subcontractors in the plan that specifically community-based and COBID-eligible organizations.

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a description of how the prospective PRO will engage with local community-based organizations and women and minority-owned businesses to develop collection points;*	n/a	<ul style="list-style-type: none"> Equity in the Establishment of a PRO Depot Network, pg 160 Unnamed section, pg 50-51 (was not updated in Draft 2) 	n/a	<p><i>depot?” If so, have they been offered the opportunity to contract, and is partnership moving ahead?; and</i></p> <ul style="list-style-type: none"> <i>Beyond the requirement to contract with existing depots if possible, has CAA secured any other partnerships with CBOs in order to fulfill the requirement to meet collection targets, convenience standards and performance standards in collecting PRO-list materials?</i> <p><i>While DEQ supports CAA’s intent to go beyond the requirement to contract where possible with existing depots and partner with CBOs that may not qualify as ‘existing depots” (as noted on pg 160, where CAA wrote, “CAA will explore partnerships with community groups that collect PRO depot materials but may not qualify for permits or meet the definition of “depot” or “drop off center””), DEQ will need to be able to assess, in Draft 3, whether or not the base requirement with respect to existing depots has been met.</i></p> <p><i>Therefore, DEQ recommends that, in Draft 3, CAA speak to each of the two above bullets separately (#1 pertains to a requirement, #2 pertains to a guidance element).</i></p>	
plans for providing enhanced convenience to underserved populations;*	OAR 340-090-0640(2)(h)	Underserved Populations, pg 51	No	<p>CAA noted they will explore the potential of enhanced curbside/valet collection for residents that might not be able to access depot points. This is lacking detail, in that it describes options that CAA “could” undertake without committing CAA to actually implement any.</p> <p>Describe updated, firmer plans to provide enhanced convenience to underserved populations.</p>	City of Portland recommended clearly defining “valet services.” ORSAC’s feedback aligned to DEQ’s.
descriptions of any alternative collection programs being proposed to substitute for convenience standards, including:	OAR 340-090-0640(6)	<ul style="list-style-type: none"> Closing Gaps to Meet Convenience Standards, pg 46-47 Running Collection Events, pg 48, and 	No	CAA signaled on page 46-47 the intent to request alternative compliance (use of on-route collection and/or collection events) in some locations “where barriers exist in establishing depots.” In Appendix F on pg F44-48, counties relevant to the prospective request are indicated with the symbols “@” and “©.”	To contextualize alternative compliance proposals within longer-term vision, City of Portland recommended

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		<ul style="list-style-type: none"> Requesting Variances, pg 48 		<p>For DEQ to approve such a request, CAA would need to enhance this proposal to clarify the specific request(s) and provide the necessary supporting information per proposed rule OAR 340-090-0640(6)(c)(A)-(D). DEQ would like to further note that it considers these criteria fairly difficult to meet for a collection-event based approach, which would be better suited as a bridge to a fixed location approach, not a permanent strategy.</p> <p>Alternative compliance proposals should also be situated within the broader context of program goals, with consideration of longer-term vision for each material.</p>	<p>discussing timelines for moving PRO materials to the USCL.</p> <p>ORSAC recommended adding analysis of the alternative compliance proposal against the criteria in rule 340-090-0670(c)(A)-(D). ORSAC also expressed concerns regarding an exclusively on-route approach not maximizing current infrastructure and not serving houseless and other currently underserved community sectors.</p>
<p>an assessment of the impact on the achievement of collection targets;</p>	<p>OAR 340-090-0640(6)(c)(A)</p>		<p>No</p>	<p>Analysis of how the alternative compliance approach impacts collection rates is not provided. Such an assessment would be particularly important for alternative compliance proposals that would substitute mobile collection events for fixed locations, or for a proximity exemption variance that would result in a lower quantity of fixed locations.</p>	
<p>an assessment of the impact on equitable access to and provision of recycling across regions and diverse populations;*</p>	<p>OAR 340-090-0640(6)(c)(B)</p>		<p>No</p>	<p>On pg 47 CAA noted that on-route collection service for PRO materials would be provided at no cost to single family and multifamily properties, suggesting equitable access for these generators under an alternative compliance approach using on-route service. However, CAA did not address access for commercial generators or logistical and space challenges of offering curbside collection for source-segregated materials at multifamily sites. Equitable access for all three of these user groups is equally important for an alternative compliance proposal that would involve collection events. How would a collection event meet the needs of a</p>	<p>Metro and City of Portland sought info on accessibility for multifamily and commercial generators. ORSAC felt that information on accessibility for commercial generators was lacking.</p>

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				commercial generator with considerable quantities of EPS, for example? Describe how an alternative compliance proposal would impact equitable opportunities to provide and access services, i.e., the economic opportunities offered to different prospective partners under a fixed location-based vs an alternative compliance approach.	
demonstrated support of relevant local government(s) for the proposal and a description of how prior consultation with affected local government(s) was taken into account in planning; and	OAR 340-090-0640(6)(c) (C)		No	This is not included in the plan, but is a gap DEQ would expect to see filled after the ORSOP work is conducted.	
an assessment of environmental outcomes.	OAR 340-090-0640(6)(c) (D)		No	Updated proposed rule language requires an alternative compliance proposal to assess environmental outcomes of an alternative compliance proposal. Add relevant language to address the suitability of different PRO materials for commingling (if proposed) and for various modes of collection (on-route, event collection, etc) if proposed.	
(for mobile collection events being proposed as an alternative program) the planned frequency of these events and how the proposed schedule will provide adequate predictability for the public.	OAR 340-090-0640(6)(b)		No	This was not included in the plan, but is a gap DEQ would expect to see filled after the ORSOP work is conducted.	
(for mobile collection events being proposed as an alternative program) the plan for sufficiently advertising the events	OAR 340-090-0640(6)(b)		No	This was not included in the plan, but is a gap DEQ would expect to see filled after the ORSOP work is conducted.	

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(for mobile collection events being proposed as an alternative program) how the planned events will uphold best practices for mobile collection events: for example, through pre-event outreach coordinated with relevant local governments, community-based organizations, and service providers; policies and processes to ensure adequate staffing, management of traffic flow, and safety; and contingency plans for responding to larger-than-expected turnout	n/a		n/a	This was not included in the plan, but updated content could be provided in a subsequent draft.	
An accompanying justification if requesting temporary variance from convenience standards.	OAR 340-090-0640(7)		No	<p>On page 48, CAA noted that, in the event a suitable location cannot be identified for a permanent collection location or collection event, CAA will request a proximity exemption variance, with the distance being a “reasonable” 15 miles from the established depot serving as the basis of the proximity exemption to the jurisdiction where the PRO depot location/collection service is lacking.</p> <p>Except in some rural cases, DEQ is reluctant to consider 15 miles a convenient distance to travel for a depot. For example, in the metro area, if CAA were to establish a collection point at the Metro Central Transfer Station, under this proposal no additional collection points would be required as far away as Parkrose, Lake Oswego, or Beaverton. DEQ does not anticipate granting such a variance for urban areas.</p>	

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				DEQ may consider approving 15-mile proximity exemption on a case-by-case basis for certain rural areas with demonstrated local government support.	
Outlining a plan for depot development that will succeed in meeting collection, convenience and performance standards by the end of the first program plan period.		Start-Up Approach for Establishing the Depot Collection System, pg 58-60	No	<p>On pg 60 CAA noted that the first-phase PRO collection points will be open by June 30, 2025, and additional sites will be onboarded “over the course of the program plan.” This leaves ambiguity regarding how many sites would be established prior to December of 2027.</p> <p>Expand the detail and scope of this section. For example, include a schedule for both start-up and the program plan period itself, and include interim benchmarks toward meeting the convenience standard. Confirm that the convenience standard will be met by the end of the first program plan period.</p>	
Outlining a plan for depot development start-up activities that collection points have been opened provides continued opportunity to recycle in metro areas where items formerly on local government recycling acceptance lists have moved to the PRO recycling acceptance list.		Start-Up Approach for Establishing the Depot Collection System, pg 58-60	n/a	Metro would like to see the strategy for continued collection of items moving off of local government collection lists.	Metro would like to see the strategy for continued collection of items moving off of local government collection lists.
7. Methods for achievement of performance standards, including	OAR 340-090-0650	Proposed Approach to Addressing Performance Standards, pg 51-58	No	This section was not updated in Draft 2, and as such DEQ’s recommendations from Draft 1 remain in force. Those recommendations follow below.	(Public comment was closed on this section in Draft 2 review because it was not updated)
a description of how the PRO will monitor sites and services on a regular basis to ensure compliance	OAR 340-090-0650(1)(a)	<ul style="list-style-type: none"> • Annual Audits, pg 53 • Audit Criteria, pg 53-54 	No	This requirement was partially addressed through the proposed approach to site auditing on pg 53, but not fully. A mix of on-site and desktop audits is proposed, but the plan did not provide any sense of how much of each type will occur. DEQ considers that most, if not all, sites should receive an on-site visit as part of the initial year of auditing.	<p>ORRA considered that sites should receive an annual on-site visit.</p> <p>ORSAC recommended onsite visits with a mid-year check-in or desk audit.</p>

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				Consider auditing more frequently than once a year and adding additional components to the auditing process.	
plans for education and outreach regarding the PRO Recycling Acceptance List in a manner that is clear, culturally relevant, accessible, and understandable to diverse audiences, including through its website	OAR 340-090-0650(1)(c)	Promotion of the PRO Depot Network, pg 57-58	Conditionally	<p>This requirement was addressed under the “Promotion of the PRO Depot Network” section (pages 57-58), as well as the “Education and Outreach” section beginning on page 117, which includes descriptions of promotion on CAA’s website, customizable collateral made available to LGs (via a portal), best messaging approaches, etc.</p> <p>The approach to education was well-described, except for one component: include a specific approach to educate commercial generators.</p>	
protocols for minimizing the contamination of materials delivered to collection points, including screening and then accepting and managing the contamination appropriately, rejecting the contamination, or both, and must also include providing service users with information on proper recycling or disposal options for non-accepted materials.	OAR 340-090-0650(1)(e)	Contamination Management, pg 54	Conditionally	On pg 54 the approach to addressing contamination broadly fulfills the requirement in rule; however, include more detail on “initial sorting,” as it has permitting implications – where will the sorting occur, how will it be done, etc.	
Information on how expanded polystyrene will be densified before transportation of more than 75 miles, including indication of the proposed method(s) to be used and	OAR 340-090-0650(3)(a) (B)	Block White EPS Foam Management, pg 54	No	CAA noted on page 54 that they intend to work with specific PRO depot locations or partners to house non-thermal foam densifiers for consolidating foam from surrounding communities. CAA is exploring placing densifiers and exploring mobile densification near Grants Pass, Klamath Falls, Burns, Redmond, Ontario, The Dalles and Pendleton.	
consideration of impacts on yield					

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consideration of impacts on transport quantities (density)				Add more detail about this proposal and demonstrate consideration of impacts on yield, transport quantities, and worker safety and exposure.	
assessment of potential safety and exposure impacts to workers					
Information on how convenience and performance standards for aerosols and pressurized containers will be met.	OAR 340-090-0640 and OAR 340-090-0650(3)(b)	Pressurized Containers and Aerosols, pg 54-56	No	<p>On pg 55-56 CAA noted they will work with DEQ-permitted facilities that offer HHW collections, as well as reach out to contractors that currently host HHW collection events to explore collaboration opportunities.</p> <p>DEQ cautions that a collection approach for these materials that is limited to existing infrastructure would fail to meet the convenience standard. The plan noted that 94.6% of the Oregon population has access to some form of HHW collection; however, that access is very limited, temporally and geographically, for most of those residents, and the access for commercial generators is much more limited than that for residential generators.</p> <p>Note that, contrary to the paragraph at the bottom of pg 54 beginning with “CAA recognizes,” it is possible to collect this material at PRO- and retailer-operated collection points; rulemaking 1 rules do not require the material to be handled through HHW infrastructure only.</p> <p>Explore return-to-retail options for these materials and revise the next draft with details of retailer partnerships achieved. CAA could also explore partnership with PaintCare for collection of aerosols.</p> <p>Include in a subsequent draft a checklist and screening procedures for collection points that will receive these materials, and information on arrangements made for the hauling and processing of these materials.</p>	<p>Metro sought edits to Table 4 on pg 56 in order to portray the state’s HHW infrastructure (and, particularly, its gaps) more accurately.</p> <p>ORRA recommended partnership with PaintCare for collection of aerosols.</p> <p>ORRA sought clarity on who would haul pressurized cylinders and aerosols.</p>

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Other aspects of the plan to set up a network of collection points for PRO Recycling Acceptance list materials, including:	n/a	<ul style="list-style-type: none"> • Establishment of Depot Sites and Contracts, pg 52-53 • Compensation, pg 57 • Reuse, pg 57 	n/a		
Principles and methods for compensation of collection point staff;* and	n/a	<ul style="list-style-type: none"> • Establishment of Depot Sites and Contracts, pg 52-53 • Equity in the Establishment of a PRO Depot Network, pg 160 	n/a	<p><i>DEQ welcomes CAA's plan, described on pg 160, to build a living wage for CBO-managed collection points into the base service fee CAA will pay monthly to the CBOs.</i></p> <p><i>CAA could add some detail in the third draft regarding how it will determine a living wage.</i></p>	ORRA also sought more clarity on the living wage commitment – why only for CBOs and how would it meet legal requirements?
Any plans for accommodating collection of reusable packaging within depots and collection points;	n/a	Reuse, pg 57	n/a	On pg 57 CAA noted interest in working with member producers to collect reusable packaging at depot locations, but does not make a concrete proposal. DEQ welcomes more detail. For example, does CAA envision separating out reusable from single-use pressurized cylinders and transporting them back to the manufacturer for reuse, something envisioned in the performance standard rules? How would CAA handle reusable wine bottles returned to its depots?	GPI recommended incorporating a focus on glass into the reuse section.
8. Proposed collection target and sufficient justification for:	OAR 340-090-0660(2)(b)	Proposed Depot Collection Targets, pg 60-65	Conditionally	<p>This section was not updated in Draft 2, and as such DEQ's recommendations from Draft 1 remain in force. Those recommendations follow below:</p> <p>The per-material collection rates of 5.9-15% per material laid out in Table 5 on pg 61 are premised upon an assumption, on pg 50, that 15% of the Oregon population will participate in depot and related services.</p> <p>Reconsider this number as it may be a low estimate; recently in Tacoma and Medford, glass depots have collected >75% of the volume expected from on-route collection, suggesting higher rates of participation are possible. A higher estimate of participation would help CAA to meet the statewide plastics recycling goal.</p>	(Public comment was closed on this section in Draft 2 review because it was not updated)

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				If CAA views 15% a realistic participation goal, other means of meeting the plastics recycling goal will need to be pursued.	
steel and aluminum aerosol packaging		Steel and Aluminum Aerosols, pg 61-62	Conditionally	See entry above regarding the plan for meeting the convenience and performance standards for aerosols. If the 11.6% target collection rate is premised on using existing HHW infrastructure only for collection, it may be low, and should be revised to account for additional collection through return-to-retail (if successfully incorporated into the collection point network).	
polyethylene film packaging		Polyethylene Film Packaging, pg 62-63	Conditionally	See note above regarding low targets, of particular concern with the plastic items since DEQ has flagged that CAA's estimate of the plastic recycling rate is likely too high and that a plan is needed for additional programming during the first program plan to achieve the 25% statewide plastics recycling goal for 2028.	
single-use pressurized cylinders		Single-use Pressurized Cylinders, pg 62	Conditionally	The concerns expressed above regarding management of aerosol packaging exclusively through existing HHW infrastructure apply to pressurized cylinders as well.	
aluminum foil and pressed foil products		Aluminum Foil and Pressed Foil Products, pg 63	Conditionally	CAA's estimate presumes 6,300 total tons of material in the state, which is referred to as an estimate of residential material generated in 2023. Clarify whether or not this estimate accounted for commercial/multifamily generation.	
block white expanded polystyrene		Block White Expanded Polystyrene, pg 63-64	Conditionally	See concerns about low rates for plastic collection indicated above with respect to PE film, also relevant here.	
polyethylene and polypropylene lids and HDPE package handles		PE and PP Lids and Caps and HDPE Package Handles, pg 64	Conditionally		
Plastic buckets, pails and storage containers		Plastic Buckets, Pails and Storage Containers, pg 64	Conditionally		
Glass	n/a	Glass, pg 65	n/a	CAA proposed a collection rate of 53% (the threshold rate of 45% is set in rule under OAR 340-90-0660(2)(a)), premised upon collecting an additional 3,100 tons of material beyond what is already	GPI considered the 3,100 additional ton recovery target low.

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				<p>collected by local governments (38,000 tons), for a total of 41,100 tons collected. DEQ seeks more detail about the 3,100 ton estimate.</p> <p>See reference to Tacoma and Medford >75% glass collection rates above, suggesting that 53% could be low.</p>	
<p>9. Any proposal to add a new covered product to the Uniform Statewide Collection List of materials with the following supporting information:</p>	<p>ORS 459A.914(4)(b) OAR 340-090-0630(4)(g)</p>	<p>Proposed Additions to the USCL, pg 67-68 Proposed Future Additions to the USCL Through Forthcoming Program Plan Amendments, pg 69-73</p>	<p>Conditionally</p>	<p>DEQ conditionally approves the addition of transparent blue and green PET bottles to the Uniform Statewide Collection List, effective July 1, 2025. This recommendation will be updated to full approval upon submission of a third draft plan that addresses all conditions of approval regarding plan content on pg 67-68 (see list below).</p> <p>DEQ appreciates advance notice of CAA’s intent to add other materials to the USCL during the program plan period via program plan amendment.</p> <p>DEQ’s approval of these sections is conditional upon the following edits:</p> <ol style="list-style-type: none"> 1) clarifying how CRPF sorting equipment needs for green and blue transparent PET bottles are being addressed, and 2) addressing the criterion “Environmental factors from a life cycle perspective” for green and blue transparent PET bottles in Table 6 on pg 68. <p>DEQ also recommends clarifying, on pg 73, the full list of materials that CAA intends to onramp during this program plan period, and the intended timing for the onramping process.</p> <p>CAA may also make improvements/updates to the section regarding PET thermoforms to the extent that it is ready to do so, or may rather wait to address DEQ’s suggestions in the plan amendment to be submitted later in 2025.</p>	<p>ORSAC recommended that CAA clarify the timing and details of plans to onramp materials by plan amendment.</p>

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				More information on all recommended edits follows below.	
Transparent Blue and Green PET Bottles, Full Proposal (pg 67-68):					
A detailed analysis of how the proposed covered product performs against the criteria in ORS 459A.914(3);	OAR 340-090-0630(4)(g)	Performance against ORS Criteria, pg 60-61	Conditionally	CAA provided additional information in Draft 2 in order to, conditionally, satisfy the statutory criteria for adding the material to the Uniform Statewide Collection List; as such, DEQ conditionally approves the addition of transparent blue and green PET bottles to the USCL from July 1, 2025, onward.	ORRA supports addition of transparent blue and green PET bottles to the USCL.
The stability and maturity of responsible end markets;			Yes	Plan content is acceptable.	
The accessibility of responsible end markets			Yes	CAA has confirmed there are accessible markets for the material.	
The viability of responsible end markets			Yes	CAA has clarified that optical sorting equipment at CRPFs will enable successful capture and sorting of the material, generating bales that mix transparent blue and green PET together with clear PET, bales for which there is existing demand from stable, viable end markets.	
Environmental health and safety considerations;			Yes	Plan content is acceptable.	
The anticipated yield loss for the material during the recycling process;			Yes	CAA has clarified that optical sorting equipment at CRPFs will enable successful capture and sorting of the material, and has provided detail on how the material is managed at end markets.	
The material's compatibility with existing recycling infrastructure;			Yes	Plan content is acceptable; no problems with sorting are expected on the basis of existing collection and sorting.	
The amount of the material available;			Yes	Plan content is acceptable.	
The practicalities of sorting the material;			Conditionally	Updated plan content clarifies that optical sorting equipment at CRPFs will correctly sort the material.	ORRA sought clarity on the timeline and plans for installation of

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				Approval is conditional upon indicating how and when CRPFs will obtain the needed sorting equipment, and how they will manage the material acceptably prior to obtaining the equipment.	optical sorting equipment at CRPFs.
Contamination;			Yes	Plan content is acceptable.	
The ability for waste generators to easily identify and properly prepare the material;			Yes	Plan content is acceptable.	
Economic factors;			Yes	Plan content is acceptable.	
Environmental factors from a life cycle perspective;			Conditionally	Replace “NA” with a short explanation of why CAA foresees net environmental benefits (with respect to life cycle impacts such as greenhouse gas emissions, depletion of nonrenewable resources, air and water toxics, etc) from addition of the material to the USCL.	
The policy expressed in ORS 459.015 (2)(a) – (c);			Conditionally	This criterion will be considered addressed when/if the statutory criterion “Environmental factors from a life cycle perspective” is addressed.	
investments or other actions that the prospective PRO will take to support the inclusion of a new covered product—for example, investments in processing equipment or increases to the processor commodity risk fee to compensate commingled recycling processing facilities for higher costs; and		<ul style="list-style-type: none"> • Material Status, pg 67 • Performance Against ORS Criteria, pg 67-68 	Conditionally	None proposed; DEQ infers that CAA presumes that all CRPFs that have not yet done so will invest in optical sorting equipment using the processor commodity risk fee, and will manually sort the materials in the meantime, but CAA should clarify this.	
a proposed schedule for adding the product to the List, allowing adequate time for updating education and outreach materials to inform the public of the change.			Yes	Proposal is immediate and feasible.	

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PET Thermoforms (Signal of Intent to Add the Material to the USCL by Plan Amendment During the Program Plan Period) (pg 69-73) <i>Note: the recommendations below are provided to inform content of the future plan amendment and do not represent decisions on a proposal to add PET thermoforms to the Uniform Statewide Collection List:</i>					
A detailed analysis of how the proposed covered product performs against the criteria in ORS 459A.914(3);	OAR 340-090-0630(4)(g)	Performance Against ORS Criteria, pg 71-72	No	In this second draft, CAA demonstrated progress with analysis of the challenges faced by the material, notably with respect to assessing market demand. Screening markets' environmental health and safety impacts remains a marked gap, as does incentivization of producer design changes. See criterion-specific comments below.	FPI, APR, and City of Portland and cosigners supported addition of PET thermoforms to the USCL in the first program plan period.
The stability and maturity of responsible end markets;			No	Continue to add detail here. CAA indicated that demand and end market development for the material are dynamic, and that CAA "will explore the market interventions that may be necessary." The plan amendment will need to lay out in more detail the markets that will be used and evidence of their true demand for the material (as opposed to tolerance of it as contamination), as well as any market interventions that CAA proposes to pursue. Recommendation that is reiterated from Draft 1: update this section to reflect that some PET thermoforms are on the USCL (specifically regarding the phrase that begins "CAA also acknowledges...").	
The accessibility of responsible end markets			No	On pg 69 CAA indicates that it will assist CRPFs to implement sorting practices that route the material to proper bales. Add more detail with respect to CRPF collaboration and the type of bales foreseen.	
The viability of responsible end markets			No	See "stability and maturity" above (same DEQ recommendation applies).	
Environmental health and safety considerations;			No	As concerns regarding water usage, wastewater management, and contamination management by reclaimers that accept PET thermoforms were raised during rulemaking 1, DEQ would like CAA to include a market screening against the "responsible" standard as part of its plan amendment submission (rather than put off consideration of these issues until after the	ORRA indicated that a plan amendment for PET thermoforms needs to prove that thermoforms are being effectively sorted at CRPFs and managed at

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				<p>material is added to the USCL and the requirement to verify markets against the “responsible” standard kicks in, which is what the plan currently suggests).</p> <p>The screening need not be as robust as full verification of facilities against the “responsible” standard, but if, for example, CAA intends to use markets in Mexico, DEQ would recommend that a CAA team actually visit the markets and explore their performance on these issues.</p> <p>Overall, CAA should beef up the analysis and demonstrate commitments related to environmental health and safety considerations of adding PET thermoforms to the USCL.</p>	responsible end markets in order for a proposal to be approvable.
The anticipated yield loss for the material during the recycling process;			No	Support the analysis with data.	APR referenced yield loss as a particular problem.
The material’s compatibility with existing recycling infrastructure;			Yes	Plan content is acceptable.	
The amount of the material available;			Yes	Plan content is acceptable. Fix the typographical error on pg 71: “material assessment processing solidly” – consider replacing with “material lists technical work group process.”	
The practicalities of sorting the material;			No	Add specificity regarding the equipment needed at CRPFs and CAA’s plans to invest in such equipment.	
Contamination;			No	<p>In Table 6, top of pg 72, CAA has stated that it “proposes to develop mechanisms to address and minimize all these challenges through education and outreach efforts.”</p> <p>Consider adding ecomodulation fee maluses as an additional mechanism to address the problem of widespread use of non-recyclable adhesives, which results in the need for more hot washes at reclamation facilities, expending more energy, generating more wastewater, and yielding yellow flake.</p>	

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				In addition, CAA should specifically detail how it will address the problems caused by “lookalike” PVC packaging and steps it will take to ensure that PVC is kept out of, and removed from, the PET thermoform stream.	
The ability for waste generators to easily identify and properly prepare the material;			No	The plan lacks specifics; see also “Contamination” recommendations above.	
Economic factors;			No	In Draft 2 CAA demonstrated continued consideration of economic factors through the addition of updated commodity value data. However, widespread acceptance of PET thermoform packaging (via USCL onramp) may change economic conditions at CRPFs. Such impacts are not evaluated, and the plan lacks details regarding how CAA will compensate CRPFs for financial impacts.	
Environmental factors from a life cycle perspective;			No	Replace “NA” with a short explanation of why CAA foresees net environmental benefits (with respect to life cycle impacts such as greenhouse gas emissions, depletion of nonrenewable resources, air and water toxics, etc) from addition of the material to the USCL.	
The policy expressed in ORS 459.015 (2)(a) – (c);			No	This criterion will be considered addressed when/if the statutory criterion “Environmental factors from a life cycle perspective” is addressed.	
investments or other actions that the prospective PRO will take to support the inclusion of a new covered product—for example, investments in processing equipment or increases to the processor commodity risk fee to compensate commingled recycling processing facilities for higher costs; and		<ul style="list-style-type: none"> • Material Status, pg 69 • Performance Against ORS Criteria, pg 69-72 • Interim Preceding Program Plan Amendment Steps and Timeline for PET Thermoform Inclusion on USCL, pg 72-73 	No	Requiring the Oregon CRPFs to ship material to Utah or further will increase their costs, but this is not accounted for in the Processor Commodity Risk Fee and CAA does not propose to provide compensation. Clarify whether or not CAA proposes to make such investments.	
a proposed schedule for adding the product to the List, allowing adequate time			Yes	CAA has updated the plan to indicate that it intends to submit a plan amendment for the material in 2025 where it will lay out a full proposal for adding the	

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for updating education and outreach materials to inform the public of the change.				material to the Uniform Statewide Collection list by December 31, 2027.	
<p>Spiral Wound Containers (Signal of Intent to Add the Material to the USCL by Plan Amendment During a Future Program Plan Period), pg 73: DEQ appreciates the updated information with respect to CAA’s intentions for spiral wound containers. DEQ recommends that CAA replace the “Spiral Wound Containers” header with “Other Materials,” and list (i.e., as a signal) a) any other materials (besides PET thermoforms) that CAA intends to add to the Uniform Statewide Collection List by plan amendment during the program plan period, and b) any other materials (besides spiral wound containers) that CAA intends to add to the Uniform Statewide Collection List in future program plan periods. CAA is also welcome to clarify what it sees as chief issues to be addressed with materials that fall into these two categories, and any actions that are planned or underway. Such information could rather await the full proposal, but interested parties generally are welcoming advance information for planning purposes.</p>					<p>CMI and HCPA want aerosol containers on the USCL.</p> <p>City of Portland and cosigners supported addition of multiple materials to the USCL during the first program plan period, and support any statements regarding the status of these materials in plan Draft 3.</p> <p>With respect to possible addition of non-hazardous aerosols to the USCL, ORRA sought clarity on how empty aerosols will be distinguished from full or partially-full containers.</p> <p>Paktech advocated for inclusion of HDPE can carriers on the USCL.</p>
<p>10. Efforts proposed to support collection, processing or responsible recycling of a specifically identified material (SIM), including:</p> <ul style="list-style-type: none"> • support for or provision of recycling depot or mobile collection for a SIM; • associated education and outreach efforts; 	ORS 459A.875(2)(g)	<ul style="list-style-type: none"> • Specifically Identified Materials on the USCL, pg 73-76 • Specifically Identified Materials on the PRO Recycling Acceptance List, pg 76-79 • Variance Requests, pg 80 • Proposal to Trial Commingled 	Conditionally	DEQ notes that this section consists of a) proposals for how SIMs will be managed during the program plan period; b) variance requests with respect to the obligation to collect three PRO-list materials and send them to responsible end markets, and c) a signal of the intent to conduct trial collections of polycoated paper packaging and single-use cups, the detailed plans for which will be proposed in a forthcoming program plan amendment. DEQ presents its recommendations for each of these subsections below, one by one.	<p>ORSAC recommended inclusion of cost data on densifiers for expanded polystyrene.</p> <p>ORRA and City of Portland and cosigners support a phased approach to collection of expanded polystyrene, but with an appropriate ramp-up</p>

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<ul style="list-style-type: none"> • associated investments in processing; • associated development of responsible end markets; 		<p>Collection of Non-USCL Materials, pg 80-83</p>		<p>a) Approval of the sections regarding SIMs is conditional upon:</p> <ul style="list-style-type: none"> • Addition of a short subsection focused on PET thermoforms in the section on SIMs on the USCL featuring a bulletized summary of actions planned for PET thermoforms that will occur regardless of CAA’s success in onramping the material, and • Clarification on pg 78 that outreach to encourage proper separation of shredded paper will not be limited to the relatively few communities that currently promote its acceptance, as the material was promoted for acceptance widely in the past. <p>b) DEQ recommends renaming and moving the content currently housed in the “Variance Requests” subsection to two other sections of the plan, as described below.</p> <p>On pg 80 in the subsection “Variance Requests,” CAA referred to practicability studies for two materials, aerosol containers and pressurized cylinders, and suggested that the cost of recycling these materials at a responsible end market exceeds the practicability threshold at OAR 340-090-0670(5)(c). Firstly, DEQ would clarify for the record that it has not yet fully reviewed and accepted this determination, which would need to happen through the program plan process (e.g. submission of the practicability study in a subsequent plan draft or as a plan amendment). Furthermore, DEQ would like to clarify for the record that, contrary to content in the “Variance Requests” section on pg 80, CAA cannot remove pressurized cylinders from the PRO Recycling Acceptance list through the program plan; rulemaking would be required.</p> <p>Were DEQ to review and accept CAA’s practicability analyses for the two materials, CAA would be released from the need to send the materials to responsible end markets, but not from the need to</p>	<p>and interim milestones. ORRA encouraged inclusion of trials focused on rural areas as part of the ramp-up, citing an opportunity in Pendleton.</p> <p>AHAM expressed appreciation for expanded polystyrene’s inclusion on the PRO Recycling Acceptance list.</p>

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				<p>collect the materials. As such the section “Variance Requests” could be better named “Practicability Findings” in a subsequent draft, and should be moved into the section of the plan regarding Responsible End Markets.</p> <p>Information regarding collection of expanded polystyrene, also included in the “Variance Requests” subsection, would be better-placed in the section regarding collection and recycling of the PRO Recycling Acceptance list. A proposal to limit collection of the material to the metro area and Eugene does not strike DEQ as a good candidate for alternative compliance, as it would not meet the requirement for equitable provision of recycling services across diverse regions, pursuant to OAR 340-090-0640(6)(c). If CAA rather has a compelling reason for why it cannot meet the convenience standard for the material by the end of 2027, DEQ would suggest that CAA lay this case out in Draft 3 as part of a request for administrative discretion with respect to when DEQ would expect the convenience standard to be met. The request should lay out a timeline for collection system development that includes interim milestones. If costs of densification are part of the rationale, CAA should include cost estimates in its written analysis.</p> <p>c) CAA may make improvements/updates to the section regarding trial collection proposals for two other SIMs (single-use cups and polycoated paperboard) to the extent that it is ready to do so, or may rather wait to address DEQ’s suggestions in the plan amendment to be submitted later in 2025 Suggestions from Draft 1 that remain to be addressed are as follows:</p> <ul style="list-style-type: none"> • Clarify in the second set of bullets on pg 81 that education efforts will encompass residential and non-residential generators alike. 	

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				<ul style="list-style-type: none"> • Incorporate research into the fate of plastic residue at end markets into the project plan. • If the materials will be marketed separately or differently from the reporting categories designated in rule (see proposed rule 340-090-0670 (6)(c)(B)(i)), propose disposition reporting categories for the materials collected in the trials. <p>On pg 81, correct the following typographical error: “Currently, these trials are though tot include...”</p>	
how the proposed approach has been informed by consultations with interested parties;	n/a		n/a	Evidence of consultation with TRP, NAPCOR, APR, Sonoco, and others was provided, with many additional consults proposed.	
a sequenced approach to implementing large-scale improvements if they are required to address the problems that spurred the designations of multiple (2+) materials; and	n/a		n/a	CAA proposed a sequenced approach (trial collection, including design/planning and consultation with relevant partners) for polycoated paper and plastic cups. CAA has also proposed a sequenced approach for thermoformed PET packaging. Less sequencing is needed for other materials.	
any other efforts to ensure successful, environmentally-beneficial and responsible recycling of a SIM as required by ORS 459A.896(2). For materials collected through producer take-back initiatives and special recycling services, this could include collaboration with said services to ensure that responsible disposition requirements are met.	n/a		n/a	The plan noted collaboration with special recycling services to ensure that responsible disposition requirements are met for PET thermoforms; this should be reiterated in the additional subsection on PET thermoforms to be added to the section regarding SIMs.	
11. Achievement of statewide plastic recycling goals: A description of how the PRO will support the collection and	ORS 459A.875(2)(a)(A) and ORS	Initial Plastic Recycling Rate Projections, pg 83-86	Conditionally	In Draft 2, CAA updated its calculation of the statewide plastics recycling rate and its plan of action to incorporate the most recent, albeit preliminary, DEQ data.	

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<p>recycling of covered products as necessary to meet the statewide plastic recycling goal. This subsection could include:</p>	459A.875(2)(f)			<p>Approval is conditional upon</p> <ul style="list-style-type: none"> • adding some more clarifying detail about the agreed-upon methodology with DEQ for calculating the statewide plastics recycling rate, • updating plastic recycling rate projections with updated data from the 2023 material recovery survey provided by DEQ in mid-November, and to reflect the decision made in rulemaking 2 as to whether or not garbage bags are considered packaging, and • (if these updates result in indication that the 2028 statewide plastics recycling goal cannot be met through existing plans alone) revision of Table 12 to incorporate additional actions that will enable the target to be met. 	
<p>Recycling rate projections for the first program plan period.</p>	459A.875(2)(f)		Conditionally	<p>In addition to the recommendation to update data once for the Draft 3 submission, there is one typographical error in Table 8: the top line in the table should be labeled “Generated tons” rather than “Disposed tons.”</p>	
<p>Demonstration that plans are adequate to achieve the first (2028) goal.</p>	459A.875(2)(a)(A)		Conditionally	<p>Update as described above. Prospects of the plan for achievement of the goal could be clarified further by summing the additional recycled tonnages resulting from each action together and comparing the resultant figure with the tonnage gap between current recycled volume and the volume needed to meet the goal, perhaps in a paragraph following Table 12.</p>	<p>ORRA recommended a step-by-step approach to achievement of the recycling goal.</p> <p>Ridwell recommended considering how partnership with alternative collection systems could contribute to meeting the 2028 goal.</p>
<p>12. Ensure that four classes of covered products, identified in ORS 459A.869(7), and contaminants collected with those covered products, are managed and disposed of consistent with the goals,</p>	ORS 459a.875(2)(a)(G)-(I) and OAR 340-090-0670	<p>Ensuring Responsible End Markets, pg 86-115</p>	Conditionally	<p>Approval of this section is conditional upon:</p> <ol style="list-style-type: none"> 1) updating the verification criteria as described below, 2) clarifying how the category of non-conformance is to be attributed in a verification when a criterion is 	

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standards and practices required by ORS 459A.860 to 459A.975 and transferred to responsible end markets.				<p>attributed two or more categories of non-conformance in Table 14 on pg 100-102,</p> <p>3) updating three of the five variance proposals,</p> <p>4) describing an approach to bale auditing that is both robust and safe to implement (DEQ suggests that CAA deploy alkaline battery-powered trackers), and</p> <p>5) evaluating sufficiency of the responsible end market program budget to implement practicable actions in the recycling supply chain.</p>	
Provide examples of end markets, as defined in OAR 340-090-0670(1), that may use the material collected from covered products in the manufacturing of new products;	ORS 459A.875(2)(a)(H)(i)	Example End Markets, pg 72-73	Yes	The plan content is satisfactory: an example list of markets is provided on pg 88.	
Describe how the prospective PRO will verify that the recycling supply chains up through and including the end markets are meeting the “responsible” standard, including through	ORS 459A.875(2)(A)(H) and OAR 340-090-0670(2)-(3)	<ul style="list-style-type: none"> • Verification of REMs, pg 88-103 • Tracking Material Flows, pg 108-110 	Conditionally	<p>In Draft 2, CAA added a detailed verification standard for assessing the extent to which facilities managing Oregon’s waste collected for recycling are “responsible.” DEQ supports CAA’s partnership with GreenBlue’s Recycled Material Standard to develop this standard and apply it to end markets.</p> <p>Further feedback relevant to nested requirements is outlined below, including conditions of approval.</p>	
(Step 1) initial screening assessments (self-attestations). Regarding these, the program plan could indicate:		<ul style="list-style-type: none"> • REM Verification Overall Approach, pg 89-91 • Initial Screening Steps, pg 91 	Yes	Obtaining self-attestations is represented as first, screening step of a 3-step verification approach on pg 89, and an expanded vision for how to conduct the screening process is laid out at pg 91. Notably, information provided by facilities in the self-attestation process will be used for determining whether or not any variances apply and a full or partial-scope verification is needed. This strikes DEQ as a rational approach.	
information that will be used to complete the screening assessments; and					
plans for distribution of self-attestation forms to			Yes	On pg 91 CAA indicated that it is offering to obtain market self-attestations on behalf of CRPFs in order to prevent duplication of effort.	

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supply chain entities; and					
(Step 2) PRO verifications. Regarding these, the plan could include:					
Details on the verification body(ies) that will be contracted with.		REMs Verification Overall Approach, pg 89-90	Yes	CAA's criteria for the selection of Certification Bodies (CBs), listed on pg 89-90, are holistic and acceptable.	
Criteria for review and approval of verification bodies and verifiers, such as accreditation requirements, professional liability insurance requirements, policy requirements for prevention of conflict of interest, etc.					
The approach for verifying that downstream entities meet the "responsible" standard, including		<ul style="list-style-type: none"> • Verification Sampling Plan, pg 93 • REM Verification Criteria (Preliminary), pg 94-102 • Verification of Chain of Custody, pg 102-103 • Verification of Recycling Yield for Materials Mixed Together in a Bale, pg 103 • Tracking Material Flows, pg 108-110 	Conditionally	<p>DEQ applauds CAA and RMS for providing a detailed list of criteria – a verification standard – that interested parties can react to and use as a basis for discussion of where Oregon's "responsible" bar should be set.</p> <p>The verification standard on pg 94-102 consists of five groupings of criteria: four corresponding to elements of the "responsible" standard in rule at OAR 340-090-0670(2)(b), and a fifth for labor.</p> <p>DEQ requests clarification in Draft 3 related to how non-conformance will be addressed. In Table 14 on pg 100-102, where a category of non-conformance is assigned for each criterion, please clarify in the text what is meant when two or more categories are indicated and separated by back-slashes. For example,</p>	<p>Interested parties commented both that criteria are not strong enough and that they are too onerous, suggesting that the "responsible" bar could be landing in approximately the right place:</p> <p>City of Portland and cosigners would like to see monitoring of effluent and emissions added to the standard. APR meanwhile would</p>

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				<p>does it mean the non-conformance could fall into one or the other category on a case-by-case basis as determined by the Certification Body in alignment with ISO 19011?</p> <p>Other nested feedback follows below.</p>	like to see many criteria downgraded from “minor non-conformance” to “recommended best practice.”
1. A description of how facilities will be selected for site visits and/or desktop verification (sampling plan)			Yes	CAA noted that all facilities (besides plastic converters, should DEQ approve the related variance proposal) will receive a site visit by July 1, 2027, and one site visit every five years thereafter, with desktop audits conducted in years when site visits do not occur. Criteria by which facilities are to be prioritized for site visits are listed on pg 94. Overall, the approach appears sound.	
2. How compliance with applicable laws and treaties will be verified (element #1 of the “responsible” standard).			Conditionally	<p>CAA could consider moving “Environmental Compliance” so that it is part of the Compliance grouping of criteria rather than the Environmentally-sound element, which could be strictly focused on environmental management quality and environmental performance.</p> <p>Otherwise, the criteria reflect that a full compliance audit is envisioned as part of the verification process, and that aligns with the definition of “responsible” in rule.</p>	
3. How chain of custody transparency will be verified (element #2 of the “responsible” standard)			Yes	The Transparency criteria appear thorough.	
4. How environmental soundness will be verified (element #3 of the “responsible” standard)		ORSAC raised concerns as to whether or not the Operation Clean Sweep protocol could be applied to all types of facilities with plastic leakage, and as to whether or not the	Conditionally	<p>Generally these criteria fairly comprehensively cover the impacts that end market facilities can have on the environment. Criterion-specific feedback is as follows:</p> <ul style="list-style-type: none"> • Break “no activity on-site causes obvious contamination to the local environment” out from the Environmental Compliance criterion into its own criterion focused on containment of waste, as this is an explicit and performance-focused piece of 	ORSAC raised concerns as to whether or not the Operation Clean Sweep protocol could be applied to all types of facilities with plastic leakage, and as to whether or not the

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		protocol is adequately robust.		<p>the “environmentally-sound” definition in rule. Attribute “Disqualifying/Major” as the non-compliance category.</p> <ul style="list-style-type: none"> • Account for energy use, as sustainable use of inputs is an explicit piece of the “environmentally-sound” definition. • Add GHG emissions to the Environmental Impact Measurement criterion. • Upgrade the “Management of Resin Loss” non-compliance category to “Major/Minor,” and report in annual reporting on any gaps in the effectiveness of using Operation Clean Sweep as the bar to which facilities are being held. • Describe a pathway for how continuous improvement will be made to the standard to address the emergent issues of microplastic pollution and hazardous substances embedded in recycle passing along to the next product. 	protocol is adequately robust.
5. How adequate yield will be verified (element #4 of the “responsible” standard), including:			Conditionally	<p>Yield is measured against the 60% threshold for the entire recycling supply chain (everything downstream of the CRPF or PRO collection point up through to the end market) rather than an individual facility; that probably needs to be made explicit.</p> <p>Consider writing the requirement to use proportional accounting when materials mix into the standard.</p>	
Protocols to be applied when reporting disposition for and calculating yield in recycling supply chains in which obligated Oregon materials mix with non-obligated materials, such as material from another state.		Accounting for Disposition and Yield, pg 109-110	Yes	CAA is clear in this section that they will use accounting approaches that fulfill the relevant requirements in rule.	

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Plans to incorporate community feedback into verifications of markets and other downstream entities.*	n/a	Whistleblower Process, pg 94	n/a	<p>DEQ welcomes CAA’s initiative, laid out on pg 94, to operate a whistleblower channel for the responsible end market verifications to allow communities adjacent to facilities to share input regarding how facilities perform against the “responsible” standard. DEQ considers that the success of such a channel will depend upon:</p> <ul style="list-style-type: none"> • how broad and targeted outreach regarding the whistleblower channel is, and • the extent to which information is being provided to potential whistleblowers, i.e., do they have something to comment on? <p>In the third draft, CAA could provide more detail addressing each of these points and different scenarios. For example, how would potentially-impacted communities of end markets outside the US be identified and contacted? And what information would be provided to potential users of the whistleblower channel – just general information about the “responsible” standard, or any facility-specific information? (e.g. ““Facility A” is subject to the “responsible” standard and we seek your input on whether or not it meets x, y, z criteria,” or, alternatively, “Facility A has been verified and met x, y, criteria, but has a non-conformance on z criterion, do you have any information that would disagree with this finding?”)</p>	ORSAC sought additional clarity on the how the whistleblower channel would be operated.
(Pre-verification requirement for chemical recycling) For a method other than mechanical recycling, an analysis of the environmental impacts for the proposed method compared to the environmental impacts of mechanical recycling, incineration and landfill disposal as solid waste.	ORS 459A.875(2)(a)(I)(iv)	n/a	n/a	No request to send materials to non-mechanical recycling was made.	

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Requests for temporary variance from the screening and verification deadlines indicated in OAR 340-090-0670(3)(b), accompanied by justification	OAR 340-090-0670(3)(e)	Requests for Temporary Variance in Verification, pg 106-108	Conditionally	DEQ approves two of the variance requests as they are and requires edits as conditions of approval for the other three, as well as additional general edits to this section, as follows:	ORSAC recommended that CAA seek clarity on willingness of converters to be held to the “responsible”
Requests for temporary variance from the required components of a verification accompanied by justification, if such requests are being made. Justification could consist of criteria for identifying facilities that would receive more limited verifications on the basis of characteristics such as location and role in the supply chain,	OAR 340-090-0670(3)(h)			<ul style="list-style-type: none"> • Renumber the list of requests for temporary variances – the list shows nine requests, but there appear to only be five (i.e., variances for 1. facilities that are already verified by another PRO (for variance from criteria covered under the other verification), 2. facilities that are already certified under another standard (from criteria covered under the other standard), 3. domestic paper mill (from numeric estimation of yield), 4. plastic converters (from the need to be verified at all, for two years), and 5. domestic and Canadian landfills (from the need to be verified besides screening, unless evidence of non-compliance is presented. In the current version’s list of variance proposals, some supporting rationales erroneously get a number despite being a rationale for the previous request rather than a distinct request. • Indicate a desired duration for each variance. • For variance requests #1 and #2, either: <ul style="list-style-type: none"> ○ provide benchmarking results that compare the draft CAA “responsible” standard vs the other standards proposed to be counted toward meeting the “responsible” standard (e.g. Clean Farms, Valipac, EUCertPlac, RIOS, FDA LNO, RMS recycled content, SCS recycled content), or ○ indicate that such info will be provided in a plan amendment when requesting the variance. Specifically, that would mean CAA is only signaling the intent to request such variances in the current program plan, but that actual approval would be contingent on a future plan amendment). • Revise the variance proposal (#4) for plastic converters to request variance from the requirement 	<p>OBI recommended seeking more industry perspectives on responsible end markets (seems aligned with DEQ recommendation regarding the variance for plastic converters).</p> <p>AF&PA expressed support for variances 1, 2, and 4.</p>

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				to obtain self-attestations for plastic converters before the program start date. Then engage plastic converters and other interested parties in plastic recycling in discussion of how to address the requirement that converters be verified against the “responsible” standard. Submit a follow-up variance request, informed by these discussions, to DEQ. The approach to variance on the need to verify converters (that produce packaging and products for food and beverage and children’s applications) should strike a balance among the industry’s concerns about the new requirements conflicting with existing Non-Disclosure Agreements, and the department’s concerns with respect to toxicity impacts.	
Actions and timeline to investigate if the prospective PRO learns of potential non-compliance through the verification/certification process or otherwise;	ORS 459A.875(2)(A)(H) and OAR 340-090-0670(5)	<ul style="list-style-type: none"> • Investigating Non-Compliance, pg 103 • Actions to Address Non-Compliance, pg 103-106 	Yes	CAA has provided additional, substantial information on its approach to non-compliance in this second draft, including specification of what particular information regarding non-conformance of a particular facility will be shared with DEQ, and definitions and examples of the three levels of non-conformance -- disqualifying, major and minor, as well as timelines for action to address each type of non-conformance (see Table 15, pg 105-106).	
Steps the PRO will take and timelines for action when verification, certification, or auditing indicates that the “responsible” standard is not being met; and					DEQ recommends ground-truthing the proposed timelines for action for each class of non-conformance presented in Table 15 with some real-world scenarios, to evaluate whether or not they are reasonable.
How the prospective PRO will track material flows, enabling required quarterly disposition reporting per ORS 459A.887(6)—for example, through use of a database, including a description of any plans for cooperative development and use of such a database with	ORS 459A.875(2)(A)(H) and ORS 459A.887(6)	Tracking Material Flows, pg 108-110	Yes	CAA has proposed developing a holistic material tracking system that will track materials originating at both PRO collection points and at CRPFs.	

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commingled recycling processing facilities;					
Description of how the PRO will audit results across all facility verifications. This section could include:	ORS 459A.875(2)(A)(H) and OAR 340-090-0670(4)	<ul style="list-style-type: none"> • Auditing the Verification Program, pg 110 • Random Bale Auding, pg 110-112 	Conditionally	<p>Approval of these sections is conditional upon describing an approach to bale auditing that is both robust and safe to implement (DEQ suggests that CAA deploy alkaline battery-powered trackers).</p>	BAN indicated that paper-based tracking is limited by reliance on reported data that can be easily disrupted or misrepresented. BAN also recommended the use of alkaline battery-powered trackers and indicated that its trackers can work with alkaline batteries.
Details of the approach taken toward auditing the accuracy, quality, and comprehensiveness of verifications.	OAR 340-090-0670(4)			<p>In Draft 2, CAA proposes to take a chain of custody (presumably predominantly desktop audit) approach rather than a remote tracking approach to fulfillment of the requirement to conduct random bale auditing. Worker safety is cited as the main factor motivating this proposal.</p>	
Key contractor(s) or auditors for random bale auditing and information about their qualifications;	n/a				
The sampling methodology to be used for random bale auditing including	ORS 459A.875(2)(A)(H) and OAR 340-090-0670(4)			<p>DEQ suggests that CAA rather consider an approach to random bale tracking that initially employs alkaline battery-powered trackers, and edit Draft 3 to reflect this and furthermore accommodate DEQ's comments on the first draft with respect to design of the sampling approach. The main downside of using alkaline-powered trackers is battery lifespan, which DEQ understands to be on the order of one year vs several years for lithium batteries. For many end-of-life pathways, one year will be sufficient to follow the product through to the end market. The use of alkaline batteries may also increase tracker size and affect the likelihood of a tracker affixed into a piece of waste at curbside making its way through the CRPF sorting process and into a bale. Placement of trackers loosely into bales at CRPFs, however, should not be affected.</p>	City of Portland and cosigners also expressed support for an alkaline battery-powered tracker approach to the auditing requirement.
Quantity of trackers to be deployed.					
Where and how they will be placed (in bales and/or in consumer bins, what type of materials, etc.					
The approach to securing the trackers to the targeted materials and preventing their early destruction or loss.				<p>DEQ is concerned that a desktop audit approach would not deliver as robust of auditing as an approach that uses remote trackers. DEQ would cite its prior experience with e-cycles provider Total Reclaim as evidence of this. In that situation there were many paper records indicating that all was well, but discrepancies were only detected through the use of remote trackers.</p>	
Safety considerations.					

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				<p>DEQ considers the safety risk posed by the presence of batteries in waste streams to be a risk that the facilities (MRFs and end markets) encounter daily. DEQ's material recovery survey data indicate that contamination in the commingled system is as high as ever, and batteries are among the contamination entering the system. That said, CAA's desire to minimize liability is understandable – risk may be low, but consequences of a battery igniting could be significant.</p> <p>However, DEQ considers that CAA can design its auditing approach in a way that would limit risk to an acceptable level <i>and</i> that would employ battery-powered remote trackers. For example, CAA could use trackers that are powered by alkaline rather than lithium batteries. Alkaline batteries are commonly shredded without advance preparation for recycling; consequently, DEQ considers that the risk of ignition due to shredding (at, say, a plastic reclamation facility) or crushing is acceptable.</p>	
<p>The proposed approach to reporting auditing results to the department, such as through the submission of audit reports from the auditor or providing access to a user interface where real-time tracking results are visible;</p>				<p>On pg 112 CAA affirmed that DEQ will be informed if any loads and bales are not compliant with the shipment documents.</p> <p>Note that DEQ may audit CAA's auditing with its own random bale tracking per OAR 340-090-0670(4).</p>	
<p>Arrangements the PRO proposes to make with processors to ensure that covered products identified in ORS 459A.914 are recycled at a responsible end market, including any investment intended to be made to support processors or other practicable action (as defined</p>	<p>ORS 459A.875(2)(A)(H)(v)</p>	<ul style="list-style-type: none"> Supporting Responsible End Markets, pg 112-113 Responsible End Market Development Guiding Principles, pg 114-115 Equity in Responsible End Markets, pg 161 	<p>Conditionally</p>	<p>Generally DEQ finds this section to be improved in Draft 2 with the fleshing out of a more proactive strategy with respect to market development, which could partially allay end market concerns regarding the balance among burdens and benefits of the Recycling Modernization Act for their industries.</p> <p>A more proactive strategy could be supported by the attribution of additional budget toward the responsible end market project; only 1% of the program budget in Appendix E is allocated toward the project. Evaluate</p>	<p>APR suggested more investment into markets, including funding for reclaimers and converters to reduce yield loss of PET thermoforms, and for greater processing capacity in order to meet recycling goals. APR also found the</p>

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in OAR 340-090-0670(5)) to be undertaken;				the sufficiency of this budget in Draft 3 to fulfill the requirement to implement practicable actions.	explicit “lowest cost” focus for identifying markets to be problematic and potentially run contrary to the Act’s recycle more <i>and better</i> mission.
Any equity approaches pertaining to practicable actions such as development of new markets.*	n/a		n/a	At pg 161, CAA laid out equity principles with respect to implementation of practicable actions at end markets. DEQ supports the principles but they would need to be upheld in implementation to add value. Perhaps a first opportunity to showcase how these principles will be applied lies with the forthcoming onramp proposal for PET thermoform clamshells, which may involve a markets development proposal?	
Any other information on how the organization will ensure that responsible management of covered products is maintained through to final disposition.	ORS 459A.875(2)(a)(G)	Producer Exemptions Under 869(13)	Yes	CAA proposed to collaborate with producers seeking exemptions under ORS 459A.869(13) to ensure that they are being recycled at REMs.	
13. Upholding Oregon’s materials management hierarchy:	ORS 459A(2)(a)(H)(3)	Upholding Oregon’s Materials Management Hierarchy, pg 115-116	Conditionally	DEQ approves of CAA’s general approach to this requirement, i.e., collection of environmental data from end markets and the development of preferred hierarchies of markets, with prioritization of materials for which there is known differentiation among markets in terms of impacts. The following edits are conditions of approval:	
Why the end markets foreseen for obligated materials represent the highest and best use on a material-specific basis. This could include:					
Focus on particular materials for which there are significant differences in the environmental impacts of different types of					<ul style="list-style-type: none"> • Fix the typographical error on pg 115, “impactsduring.” • On pg 115, regarding use of glass in aggregate applications, replace “which would not be considered a REM” with “which would not be

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<p>markets, such as glass or cartons.</p> <p>Plans to develop new markets or undertake other practicable actions if the end markets planned for initial use do not represent the highest and best use.</p>				<p>considered in alignment with Oregon’s materials management hierarchy.”</p> <ul style="list-style-type: none"> On pg 115, delete the sentences “Therefore, CAA does not need to perform an environmental impact evaluation for alternative glass markets. This evaluation will only be conducted on available markets.” Technically the statute does not limit the requirement to available markets – if, for example, a lower-impact market expressed interest in setting up shop in the region, PRO action to facilitate the establishment of the new market would be in alignment with the statutory language. 	
<p>14. An education and outreach plan describing how the prospective PRO will meet obligations and cultivate widespread customer awareness and understanding of the Uniform Statewide Collection List and recycling services provided.</p>	<p>ORS 459A.875(2)(a)(J) and OAR 340-090-0650(1)(c)</p>	<p>Education and Outreach, pg 117-136</p>	<p>Conditionally</p>	<p>To upgrade DEQ’s recommendation from “Conditionally” to “Yes,” in Figure 9 on pg 124 and Figure 11 on pg 131, indicate which materials from batch 1 will be made available to local governments earlier, on February 1, as part of a preliminary, “beta” (unbranded) batch of materials. DEQ expects that the beta batch will include the USCL Guide and the newsletter in English and Spanish, as well as the USCL images. Also update the text of the subsection “Schedule Including Proposed Timing of Start-Up Approach” on pg 131-136 to account for the beta batch.</p>	<p>(Public comment was not open on this section during the second draft review as it was already conditionally approved)</p>
<p>Goals for education and outreach efforts and information on approach for measuring progress toward the goals. Metrics to evaluate performance could include public awareness, public engagement, and accessibility.</p>	<p>ORS 459A.875(2)(a)</p>	<p>Goals for Education and Outreach, pg 117-118</p>	<p>Yes</p>	<p>CAA has updated the goals section in alignment with the conditions of approval from Draft 1.</p>	
<p>An explanation of how the proposed suite of materials and promotional campaigns will support:</p>	<p>ORS 459A.875(2)(a)(J)</p>				

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widespread awareness and understanding for all customers in Oregon, including residents living in single-family homes and multifamily communities, as well as commercial businesses, institutions, and non-governmental organizations.		Supporting Widespread Awareness and Understanding, pg 118-125	Yes	The plan adequately conveyed intention to connect with and educate different user groups comprehensively.	
a phased approach that first builds awareness among Oregon residents and organizations that change is coming and the reason change is needed, and then provides the detailed instructions for customers to participate successfully in the new system (with electronic educational materials underpinning both phases).		A Description of the Statewide Promotional Campaign, pg 125-128	Yes	Plans for the statewide campaign encompassed an initial awareness phase themed “change is here!” Thereafter, phase 2 will target specific (frequently, infrequently and non-participating) audiences with specific messages. DEQ considers this sequencing reasonable and appreciates that advance surveys of Oregon residents will inform campaign design.	
A description of the customizable educational collateral that will be prepared for local governments to communicate the Uniform Statewide Collection List, explain how items should be prepared for recycling, and highlight to the public the importance of not placing contaminants in commingled recycling collection, including:	ORS 459A.875(2)(a)(J)(i)	Schedule Including Proposed Timing of Start-Up Approach, pg 131-136	Yes	CAA will create an online portal that local governments, their service providers and potentially commercial businesses can access to find, customize, print and mail educational collateral at no cost to them. Four batches of materials to be made available to local governments sequentially in 2025 are depicted in Fig 11 on pg 131 and described on pg 131-135. Specific collateral will include: <ul style="list-style-type: none"> • Photos/illustrations of accepted items and photos/icons of key contaminants • Sample text for informative, motivational, and instructional messaging 	
collateral that will be made available in					

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electronic format to local governments and their authorized service providers for customization to local conditions;				<ul style="list-style-type: none"> • Handouts and/or mailers, including postcards, brochures, full-page flyers, door hangers, and magnets • Social media toolkits and digital media materials • Signage for depots, commercial and multifamily recycling enclosures • Decals for roll carts 	
collateral that will be printed and then made available for distribution, including but not limited to signage for depots and commercial and multifamily recycling enclosures as well as decals for roll carts; and					
electronic files that will be made directly available to the public, including a website describing the locations and operating hours of collection points for PRO recycling acceptance list items, and how such items should be prepared for drop-off.	ORS 459A.875(2)(a)(J)(i)-(ii) and OAR 340-090-0650(1)(c)				
A description of the statewide promotional campaigns to supplement the education and outreach through the customizable materials. This could include but is not limited to messaging distributed through print publications, radio, television, the Internet, social media, and online streaming services;	ORS 459A.875(2)(a)(J)(iii)	A Description of the Statewide Promotional Campaign, pg 125-128	Yes	As referenced above, the plan described a vision for a two-phase statewide campaign, with specific target audiences, messaging, and mediums of communication for each. The approach as described is sufficient to meet the requirement.	
A schedule for the development of educational collateral and implementation	ORS 459A.875(2)(a)(J)(ii)	Schedule Including Proposed Timing of Start-Up Approach, pg 131-136	Conditionally	The plan included a schedule for developing the educational program from April 2024 onward, with	

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<p>of statewide promotional campaigns that ensures a successful program launch and leaves adequate time for mandatory consultation on the customizable collateral with local governments and their designated service providers, review of the collateral by the Recycling Council, and review and approval of the collateral by DEQ.</p>				<p>surveys and analysis, concept preparation, CBO engagement and more in the initial months.</p> <p>Later in 2024 and early 2025, CAA will work with the Recycling Council, conduct test campaigns, engage with local governments, and roll out customizable materials in four batches, with the first batch made available to local governments on April 4, 2025.</p> <p>Approval is conditional upon updating Figure 11 (as well as duplicate Figure 9) and the accompanying schedule-focused text to account for materials from batch 1 that will be made available to local governments earlier, on February 1, as part of a preliminary, “beta” (unbranded) batch of materials.</p> <p>DEQ expects that the beta batch will include the USCL Guide and the newsletter in English and Spanish, the label/in-mold graphic for roll carts, and the USCL images.</p>	
<p>A description of how the prospective PRO will ensure that educational materials and campaigns are culturally responsive to diverse audiences across this state, including people who speak languages other than English and people with disabilities; are printed or produced in languages other than English; and are accessed easily and at no cost to local governments and users of the recycling system. This description could include practices employed to meet these requirements, such as*:</p>	<p>ORS 459A.875(2)(a)(J)(i) and ORS 459A.893(3)</p>	<p>A Culturally-Responsive Approach, pg 128-130</p>	<p>Yes</p>	<p>CAA has satisfied all conditions for approval of this subsection. DEQ particularly welcomes the expanded (to 11) list of languages into which materials will be translated.</p>	

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engagement with local community-based organizations and relevant members of the public to develop and distribute educational materials and campaigns,	n/a		n/a	CAA has added detail on its vision for collaboration with CBOs.	
use of images to convey information rather than text,				CAA proposed universal design concepts, including using imagery, icons and other visuals rather than large blocks of text to more quickly and easily communicate information and demonstrate processes.	
use of imagery and models that represent a variety of cultures and Oregon’s diverse communities,				CAA will monitor updates in the American Community Survey to ensure transcreation and other elements of the education and outreach strategy remain in line with demographic shifts within the state. Fix the spelling error on pg 129: “elemtns.”	
avoidance of small print size and reverse type (light text on dark background),				Universal design concepts, including contrast and text for easier reading, were proposed.	
testing of imagery to ensure designs are color-blind friendly,				Universal design concepts, including accounting for color blindness and ensuring legibility when selecting color palettes, fonts, text size, and imagery, were proposed.	
exploration of designs that allow for text in both Spanish and English in the program brochure/mailer, printed decals and signage, and in-mold label for roll carts.				The plan encompasses in-mold labeling and a style guide for terms. CAA has also clarified that cart labels will be printed in multiple languages.	
translation of the materials	ORS 459A.893(3)(b)			CAA will translate and transcreate materials into the following languages spoken in Oregon by at least 2,000 people over the age of five who spoke English less than very well according to the most recent American Community Survey: 1. Spanish 2. Simplified Chinese	

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				3. Traditional Chinese 4. Korean 5. Arabic 6. Russian 7. Vietnamese 8. Tagalog 9. Hindi 10. Somali 11. Ukrainian CAA will also create a process through which local governments can request translation or transcreation into additional languages spoken in Oregon by at least 1,000 people over the age of five who spoke English less than very well according to the most recent American Community Survey.	
Plans for an online portal or other means to provide local governments and their designated service providers (and any other entities, if planned) easy access to educational materials at no cost;	ORS 459A.875(2)(a)(J)(ii)	Plans for an Online Portal, pg 124-125	Yes	CAA proposed to create an online portal that local governments, their service providers and potentially commercial businesses can access to find, customize, print and mail educational collateral at no cost to them. Specific collateral will include: <ul style="list-style-type: none"> • Photos/illustrations of accepted items and photos/icons of key contaminants • Sample text for informative, motivational, and instructional messaging • Handouts and/or mailers, including postcards, brochures, full-page flyers, door hangers, and magnets • Social media toolkits and digital media materials • Signage for depots, commercial and multifamily recycling enclosures • Decals for roll carts 	
The prospective PRO could describe the relevant experience of team members that will be developing the USCL educational resources and promotional campaigns	n/a	Relevant Experience, pg 136	n/a	The plan outlined the relevant experience of CAA and its main educational partner, The Recycling Partnership, on pg 136 of the plan.	

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or, if contracting with a communications consultant, describe the type of experience that will be sought in the solicitation process.					
15. Product Speciation for the Fee Structure	ORS 459A.875(2)(a)(E) and ORS 459A.875(2)(h)	Product Speciation for the Fee Structure, pg 137-139	Yes	The 60-material list of reporting categories on pg 137-139 is approved.	(Public comment was not open on this section during Draft 2 review as it was already conditionally approved)
16. Description of how the prospective PRO will establish, calculate and charge membership fees to member producers, including	ORS 459A.875(2)(a)(E)	<ul style="list-style-type: none"> • Financing (besides Product Speciation subsection), pg 137-158 • Appendix E, Itemized Budgets by Program Year, pg E35-E39 • Appendix G, Detailed Fee-Setting Methodology, pg G1-G34 	No	Recommendations pertaining to specific requirements follow below.	
the schedule of membership fees (base rates), accompanied by rationales for:	ORS 459A.875(2)(h)	Interim Base Fee Schedule Ranges, pg 142-144	No	<p>A simplified version of a fee schedule with only eight material categories was provided as a preliminary schedule in Draft 1, and has been expanded to show fees under three scenarios (high, medium, and low estimates of system costs) in Draft 2.</p> <p>The schedule can be approved (if it meets all relevant criteria) when updated in a subsequent plan version to reflect the full list of reporting categories and the amounts that will be charged for each.</p>	
How the schedule ensures that higher fees are charged for non-recyclables than for recyclables on a	ORS 459A.884(3)(a)	• Meeting the Statutory Requirement, pg 144-146	Conditionally	The plan outlined an approach, the “discretionary state-adjustment factor,” to ensure that recyclables are charged less than non-recyclables. The approach appears sufficient to deliver the statutory requirement	

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weighted-ton average basis; and				of recyclables being charged, on average, less than non-recyclables. Approval is conditional upon updating the subsection in a subsequent version of the plan to reflect application of the method to an updated fee schedule.	
How the schedule ensures, to the extent possible, that materials do not cross-subsidize one another.	ORS 459A.884(3)(b)	<ul style="list-style-type: none"> Appendix G, Detailed Fee-Setting Methodology, pg G1-G34 Development of the Base Fee Algorithm, pg 139-142 	No	DEQ's recommendations, which pertain particularly to the appendix claimed confidential by CAA, are located in confidential Appendix B of this document.	
the algorithms by which fees will be calculated	ORS 459A.875(2)(a)(E)		Conditionally		
any producer fee incentives other than graduated fee adjustments that will be offered;	n/a	Producer Fee Incentives Other than Graduated Fee Adjustments, pg 144	n/a	CAA characterized lower fees on average for non-recyclables as a fee incentive besides graduated fee adjustments.	
Graduated fee algorithm and methods, including	ORS 459A.875(2)(a)(E)-(F) and ORS 459A.884(4)	Graduated Fee Algorithm and Methods, pg 147-155	Conditionally	<p>CAA has responded to feedback on its first draft by updating this section of the plan with a proposal for implementation of two ecomodulation bonuses, those mandated in proposed rule (referred to in the program plan as Bonuses A and B), during the first program plan.</p> <p>Approval of this subsection is conditional upon:</p> <ul style="list-style-type: none"> inclusion of additional detail on Bonus B (e.g. bonus magnitude and cap amount, business and eligibility rules, etc) so that an equally detailed vision for the implementation of Bonus B as for Bonus A is presented, moving the start date for Bonus B one year earlier, to the 2027 fee year, and addition of language or a table laying out the rationales for various key design decisions and how they are aligned with the overall goal of delivering continual impact reduction. <p>In the plan, CAA describes its vision for implementing two bonuses proposed in the current</p>	

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				<p>rulemaking as mandatory offerings from the PRO to member producers, a simple bonus for voluntary evaluation and disclosure of life cycle impacts of products (which CAA terms “Bonus A” in the plan) and a larger bonus for substantial impact reduction as demonstrated through a life cycle impact evaluation and disclosure (“Bonus B”). CAA proposes to begin applying Bonus A to producer fees in the 2026 program year, and Bonus B in the 2028 fee year. DEQ accepts the premise that some phase-in may be needed to ensure smooth implementation of ecomodulation, but requests that draft 3 of the plan include a start year for Bonus B of 2027. With that change, the PRO would have some experience with its implementation to inform development of its second program plan for 2028-2032.</p> <p>Other nested recommendations follow below.</p>	
the algorithm for the graduated fee approach, indicating the criteria and magnitude of modulation;	ORS 459A.884(4) and ORS 459A.875(2)(a)(E)	The Algorithm and Accompanying Descriptive Text for the Proposed Graduated Fee Structure, pg 147-152	Conditionally	<p>Overall, DEQ considers CAA to be on a good path with the development of the bonuses.</p> <ul style="list-style-type: none"> It is proposed on pg 149 that CAA will set Bonus A at 10% of base fees associated with all primary materials in the SKU that is being assessed, capped at a maximum fee reduction of \$20,000 for each SKU or batch of SKUs that are evaluated and disclosed in a project report. A 10% discount strikes DEQ as an appropriate bonus magnitude for simple evaluation and disclosure. Generally, the magnitude for this bonus needs to land somewhere that is attractive to producers but does not lead to “factory-production” of life cycle assessments for the mere purpose of attaining bonuses rather than out of interest in impact reduction opportunities. As for the \$20k cap, it seems an appropriate mechanism for partially addressing concerns about fairness and the potential for large producers to have greater access to (because they have in-house LCA capacity) and gain more (because they have 	

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				<p>greater supply volumes) from these bonuses than small producers.</p> <p>For Bonus B, CAA proposes to apply the bonus to primary packaging material in the SKU, and reward three tiers of impact reduction with progressively higher bonus magnitudes and caps. The magnitudes and cap amounts corresponding to each tier will be proposed in the third draft plan, with the Bonus B amount in all cases larger than what would have been awarded if the producer sought Bonus A for the same SKU instead.</p>	
Inclusion of both penalties and rewards in the approach to graduated fees	ORS 459A.884(4)		Yes	<p>DEQ generally approves of the proposed approach. CAA proposes to start the program only with Bonus A and Bonus B, the bonuses proposed as mandatory in the current rulemaking, although it is not precluded from proposing other bonuses or penalties. Despite statute mandating both penalties and rewards, DEQ is amenable to a phased-in approach, with an expectation that penalties would roll out starting from the second program plan.</p> <p>As the program rolls out DEQ welcomes CAA's evolving thinking on penalty design, perhaps using information from the life cycle evaluations, such as the hazardous substance disclosures, as an input into its thinking. DEQ also sees a focus on impediments to recycling such adhesives, labels, and additives as promising.</p>	<p>ORRA noted additives to nursery packaging that enable optical sorting (e.g. possible focus for an ecomodulation penalty).</p> <p>APR noted the problem of non-recycling compatible adhesives and labels on PET thermoforms.</p>
Accompanying descriptive text explaining how the algorithm will deliver continual reductions in the environmental and human health impacts of covered products	ORS 459A.884(4) & ORS 459A.875(2)(a)(F)		Conditionally	<p>Language could be moderately strengthened to explain how various design decisions aim to continually reduce impacts. For example, CAA could elaborate on bonus magnitude, materials in the SKU to which bonuses are to be applied, and which other producers will fund which bonuses.</p> <p>DEQ understands, based on its own research, that the act of voluntary evaluation and disclosure correlates to impact reduction action. Therefore, CAA does not</p>	

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				need to further describe this dynamic at the macro level.	
a description of the factors taken into consideration in development of the approach, and how their incorporation contributes to continual incentivization and disincentivizing of producer choices that actually correlate to meaningful environmental benefit. The following five factors must have been considered according to statute:	ORS 459A.875(2)(a)(F) and ORS 459A.884(4)(a)-(e)	Consideration of Other Ecomodulation Factors, pg 153-155	Yes	DEQ concurs with CAA's description at pg 153-155 of how the two proposed bonuses take into account all five statutory factors.	
The post-consumer content of the material, if the use of post-consumer content in the covered product is not prohibited by federal law		Post-Consumer Content of the Material, pg 153-154	Yes		
The product-to-package ratio		Product-to-Package Ratio, pg 154	Yes		
The producer's choice of material;		Producer's Choice of Material, pg 154	Yes		
Life cycle environmental impacts, as demonstrated by an evaluation performed in accordance with ORS 459A.944; and		Life Cycle Environmental Impacts, pg 154	Yes		

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The recycling rate of the material relative to the recycling rate of other covered products.		The recycling rate of the material relative to the recycling rate of other covered materials, pg 155	Yes		
a description of how the PRO will maintain financial solvency (specifically, how loss of revenue due to ecomodulation rewards will be paid for).	ORS 459A.875(2)(a)(E)	Funding the Bonuses, pg 152-153	No	DEQ recommends that CAA add supporting rationales explaining why the proposed approach is best for delivering continual incentivization of impact reduction, while also respecting the principle that cross-subsidization be limited in fee-setting. CAA proposes to draw the funds for paying out both bonuses from producers within the material categories that a producer is receiving the bonus for. Effectively, these other producers in those categories will be paying more, through their material-specific contributions to the ecomodulation reserves, in order for the producer that has voluntarily evaluated and disclosed impacts to receive a fee reduction.	
Alternative membership fee structure proposal (if applicable): Per ORS 459A.884(5), the PRO could propose an alternative fee structure that does not adhere to the requirements of ORS 459A.884(2)-(4) but still delivers cost-proportional product differentiation and incentivizes less impactful producer behavior. A proposal of an alternative membership fee structure could explain	ORS 459A.875(2)(a)(E) and ORS 459A.884(5)	Alternative Membership Fee Structure (if Applicable), pg 156	n/a	CAA did not to propose an alternative membership fee structure.	
How it will ensure that products don't cross-subsidize each other.	ORS 459A.884(5)				
How it will incentivize less impactful producer behavior.	ORS 459A.884(5)				

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How it will not incentivize non-recyclable materials, which DEQ views as an undesirable outcome (although an alternative membership fee structure would not be strictly held to charging more on average for non-recyclables than for recyclables, i.e., the requirement imposed by ORS 459A.884(3)).	n/a				
Inclusion in the fees approach of uniform membership fees for members that had a gross revenue of less than \$10 million for the organization's most recent fiscal year, or sold in or into Oregon less than five metric tons of covered products for use in this state in the most recent calendar year.	ORS 459A.884(6)	Flat Fees, pg 143-144	Conditionally	CAA has addressed all conditions of approval from Draft 1 by adding two additional tiers to the flat fee schedule for producers with revenue of less than \$10 million but more than 5 tons of supply, and by adding an option for a producer that qualifies for flat fees to not report (they would need to pay the fees for the highest tier in the flat fee schedule). Approval is conditional because CAA will likely need to update the fee amounts in Draft 3 to reflect updated program cost projections.	
Adequacy of financing: this subsection could contain:	ORS 459A.875(2)(i)	Adequacy of Financing, pg 114	No	See comments below.	
demonstration that the membership fees collected will provide adequate revenue to fund all costs associated with the producer responsibility program. A fee schedule that does not appear to generate sufficient revenue, meaning that program delivery would depend upon funding from other			No	The program plan demonstrated how the fee schedule is envisioned to cover all costs, but CAA will update its system cost estimates and fee amounts.	

Required or Guidance Plan Component	Statute or Rule Citation	Plan Section(s)	Section(s) approved? (yes, no, conditionally)	DEQ rationale/recommendation	Parties that submitted similar or related feedback ⁺
sources, could be cause for plan rejection. Included in this subsection could be:					
a description of the prospective PRO's approach to reserve funds or other contingencies for responding to financial hardship. For example, a prospective PRO could set a minimum and a maximum reserve budget, defined as a proportion of the annual operating budget.	ORS 459A.875(2)(m)	Program Reserves and Contingencies, pg 157-158	Conditionally	CAA has addressed DEQ's concerns from the Draft 1 review by describing contingencies that the program reserves are intended to address, and by explaining why the reserve amount is set equal to six months of variable costs without factoring fixed costs into the equation. DEQ is satisfied with these explanations. Approval is conditional upon updates to this section that are envisioned for Draft 3 (on pg 158, CAA notes potential for updating the reserve amount and rate of accumulation in Draft 3).	
Itemized system costs for 2025, 2026, and 2027 (for later years, may be appropriate to collapse the itemization or provide ranges), including:	n/a	Appendix E, Itemized Budgets by Program Year, pg E35-E39	n/a	Provided as ranges.	
Total amount to be spent on recycling system expansion.	OAR 340-090-0790(2)(b)		No	Provided as a range in Draft 1, updated figure expected in Draft 3.	
Amounts to be spent on recycling system expansion per individual local government.	OAR 340-090-0790(1)(e)		No	Expected in Draft 3.	
Itemized system costs incurred before the start date.	n/a		n/a	Lumped with 2025.	
Administration and operations costs of the PRO (aggregated).	n/a		n/a	Provided as a range.	

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Forecasted reserve level amount.	ORS 459A.875(2)(m)		Yes	Provided as a range.	
Estimated revenues, including:	n/a		n/a		
Start-up funding;	n/a		n/a	Not provided, assumed that it will be recouped by member fees in 2025.	
Member fees;	n/a		n/a	Provided for 16 material categories as a range.	
Value of print and online advertising expected from newspaper and magazine publishers in lieu of membership fees; and	n/a		n/a	Not provided but not required. On pg 141 CAA indicates that it will provide more clarity in Draft 3 as to whether or not newspaper and magazine publishers that provide in-kind advertising at a value commensurate with their fee amount will need to pay a portion of base fees to cover administrative costs. DEQ welcomes this.	
Other revenue	n/a		n/a	None cited.	
Cost of independent financial audits	n/a		n/a	Not broken out as a separate budget category but presumed included in the PRO management and admin budget(?)	
17. Plans to advance equity in recycling	OAR 340-090-0640(1)(a)(C) OAR 340-090-0640(2)(h) OAR 340-090-0640(6)(c)(B) ORS 459A.893(3)		Equity, pg 159-162	No	Ten subcomponents throughout the plan marked by asterisks count toward the Equity component, in addition to the components under which they are nested. Four of these are addressing statutory or rule requirements that must be met before the Equity section can be approved. Of these four, one is adequately addressed in Draft 2 (the requirement to provide culturally-responsive education materials), one is conditionally addressed (the requirement to collaborate with tribal depots if possible to collect the PRO Recycling Acceptance list), and two pertaining to collection of the PRO Recycling Acceptance list are not yet adequately addressed (the requirement to provide enhanced convenience to underserved populations, and the requirement to uphold equity in alternative compliance proposals. As equity is a priority for the State of Oregon, DEQ encourages CAA to go beyond the four requirements and address the guidance elements and relevant

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				ORSAC feedback as well, if feasible, and sees considerable progress in this direction in Draft 2. See details in individual responses to individual subcomponents.	
18. Management and Compliance		Management and Compliance, pg 163-182	No	See recommendations specific to particular subcomponents below. In order to achieve approval for this section, in Draft 3 CAA should add: <ul style="list-style-type: none"> • detail regarding reporting of producer noncompliance to DEQ – namely, what is the time frame beyond which DEQ is notified of producer noncompliance, and what is envisioned with respect to compliance reporting processes and protocols for large producer mandatory disclosures?, and • a full description of the dispute resolution process including a process timeline. 	
Description of the program’s overall day-to-day management, including management of contracts, record keeping, reporting, and compliance oversight of service providers.	n/a	Overall Day-to-Day Management, pg 163	n/a	Provided on pg 163.	
Statement or commitment that the program will be managed to ensure program compliance with all relevant and applicable state and federal laws and regulations.	n/a		n/a	Provided on pg 163.	
Names and contact information for key personnel responsible for running various aspects of the program could be provided, including the authorized representative.	n/a		n/a	Provided on pg 163.	
Description of how the PRO will communicate and coordinate with the department, the Oregon	ORS 459A.875(2)(d),	Communications, pg 164-171	Yes	CAA described a thorough approach for communicating with key interested parties, updated with more detailed information on resources available to producers.	

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Recycling System Advisory Council, local governments, local governments' service providers, processors and any other producer responsibility organizations.					
A description of the prospective PRO's approach to the long-term coordination process, including plans for ensuring that a coordination plan includes all required components under OAR 340-090-0680(2)(b).	n/a	Other PROs and Multi-PRO Coordination, pg 171	n/a	CAA included a short section on this at pg 171. In the absence of multiple prospective PROs, no further information is desired at this time.	
A description of the prospective PRO's vision for how long-term coordination will ensure that PROs' collective obligations under provisions ORS 459A.860 to 459A.975 are met, including plans for coordination on specific elements listed under OAR 340-090-0680(2)(c).	n/a		n/a		
Description of the process for promptly notifying the department, the Oregon Recycling System Advisory Council and producers of potential noncompliance with the requirements of ORS 459A.860 to 459A.975 by a producer or producer responsibility organization.	ORS 459A.875(2)(l)	Managing Compliance, pg 175-177	Conditionally	<p>On pg 176 it is stated that, after a time frame to be specified in the Membership Rules passes, CAA will notify DEQ of non-compliance by a former or current producer member that pertains to payment of fees or reporting of data. Specify the time frame and reference the relevant membership rules.</p> <p>DEQ appreciates that CAA will, as noted on pg 177, inform DEQ of producers that may be obligated and have not joined CAA.</p> <p>DEQ also appreciates CAA's description regarding non-compliance with respect to the large producer disclosure requirement as noted on pg 177. More detail is needed here to assess whether the</p>	OBI sought more information on CAA's approach to producer non-compliance.

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				requirement is met – what are the specific compliance reporting processes and protocols that CAA is proposing?	
This process could encompass plans to issue notifications regarding potential noncompliance by other actors that the PRO could be aware of—for example, a local government’s refusal to accept funding and implement system expansion needed to comply with the Opportunity to Recycle Act, per OAR 340-090-0630(4)(f).	n/a		n/a	This particular example of a local government refusing to implement system expansion was not addressed in the plan.	
Description of a process, including the process timeline, for how the producer responsibility organization will resolve any disputes involving compensation of local governments and local governments’ service providers under ORS 459A.890; disputes involving commingled recycling processing facilities under ORS 459A.920 and 459A.923; and disputes involving contracting with existing depots under ORS 459A.896(a).	ORS 459A.875(2)(e) OAR 340-090-0640(1)(b)(D)	Dispute Resolution (Local Governments and CRPFs), pg 178	No	CAA acknowledged on pg 178 that the current version does not address this requirement adequately. Consider presenting the information in two subsections: 1. the ground rules for dispute resolution that have been worked out through the ORSOP process thus far (for example, some principles for what are and are not eligible costs, and 2. Procedural and process details for the mechanism, including the timeline for how a dispute resolution process would occur.	ORSAC sought more details on procedure and process for the dispute resolution mechanism. ORSAC sought more details on the role of the working group.
Policies, procedures, and practices for ensuring:	n/a		n/a	Page 179, Paragraph 2 referenced state-specific policies, procedures and practices.	

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Safety and security of staff, contractors, and members of the public.	n/a	General Policies, Procedures, and Practices, pg 179-180	n/a	A commitment to implement standards pertaining to workplace safety appeared on pg 179.	
Compliance by staff and contractors with all relevant state and federal laws and rules;	n/a		n/a	A commitment to comply with all applicable laws pertaining to workplace safety appeared on pg 179. As pertains to collection for the PRO list materials, CAA may wish to expand this commitment toward compliance with land use provisions, environmental laws and labor laws.	
Successful and timely delivery of project outcomes by contractors	n/a		n/a	On pg 180 CAA indicated consideration of how to ensure successful and timely delivery of outcomes by contract.	
Protection of confidential information;	n/a		n/a	On pg 179-180 CAA pledged to adopt an information security plan for protecting against problems with confidential info.	
Retention of information required for annual reports submitted under ORS 459A.878	n/a		n/a	Per pg 180 CAA will designate a records custodian charged with ensuring records are kept for at least five years (pursuant to ORS 459A.962) and would be available to DEQ for inspection upon request. CAA has provided further clarity in Draft 2 as to how and where documents are to be stored.	
Maintenance of records necessary to demonstrate compliance.	n/a	<ul style="list-style-type: none"> • Compliance Process, pg 176 • Retention of Information, pg 180 	n/a	See pg 176 -- with respect to producer compliance, CAA will require its producer members to retain records to substantiate and verify the accuracy of the info submitted in their reports for a to-be-determined period of time, and records will be subject to inspection by CAA.	
Any internal requirements around engagement of “Certified Firms” when contracting work out to third parties (“Certified Firm” means a small business certified under ORS 200.055 by the Oregon Certification Office for Business Inclusion and Diversity (COBID) as a minority-owned business,	n/a	Equity in PRO Administration, pg 162	n/a	A relevant subsection on pg 162 lays out principles for upholding equity in administration of the program, including through development of an approach that provides opportunities to COBID businesses, provision of equal opportunities for system expansion and depot collection, equitable employment practices, and prioritizing Oregon-based individuals when hiring.	

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woman-owned business, business that service-disabled veterans own, or emerging small business).*				DEQ still considers that more information on how COBID businesses will be engaged could make this subsection more effective.	
Description of the closure plan to settle the affairs of the PRO if it needs to close, ensuring that producers will continue to meet their obligations during the dissolution process and including a protocol for notifying the department, the Oregon Recycling System Advisory Council and local governments of the dissolution. This section could include:	ORS 459A.875(2)(m)	Closure Plan, pg 183-184	Yes	<p>In Draft 2, CAA provided additional information to substantiate its assumption that its proposed six-month reserve will be ample for fully resolving all CAA obligations related to a potential closure of its program—namely, the reserve amount proposed is in the range of reserve amounts successfully used in various stewardship programs in Ontario.</p> <p>While it would be more convincing to cite an insurance policy or other financial mechanism that backs up the intent of the reserve fund, and/or to provide example scenarios of closure at different times and how the reserve funds would be adequate for covering outstanding obligations, DEQ finds the existing plan contents to be acceptable.</p>	
A description of how the closure plan will ensure that there are sufficient reserve funds to satisfy all obligations until such time as producer members have joined a different producer responsibility organization. To enable this outcome, the plan may include elements such as proof of a closure insurance policy, retention of auxiliary staff through a closure process, and the timing and approach for notification of the public.	ORS 459A.875(2)(n)			<p>No reference to an insurance policy or other such financial mechanism was provided to back up the stated intent to be able to fund obligations during closure.</p> <p>DEQ has financial assurance mechanisms for landfills in rule at OAR 340-094-0145(6), which CAA could review to understand what DEQ would consider to be a reliable financial assurance mechanism.</p>	
Other plan subcomponents:					
Inclusion of a certification and attestation section	n/a	Certification and Attestation, pg 186-187	n/a	The certification and attestation were included in the plan.	

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including contact information, EIN, proof of nonprofit status, and the following signed, certifying statement: “I/We hereby declare under penalty of false swearing (Oregon Revised Statute 162.075 and ORS 162.085) that the above information and all of the statements, documents and attachments submitted with this plan are true and correct.”					
Inclusion of a definitions section.	n/a	Appendix A, Definitions, pg A2-A8	n/a	A definitions section was included in the plan. DEQ recommends adding a definition of “equity” to this section. A definition of “equity” that CAA will be using is referenced on pg 159, but not spelled out.	ORSAC recommended a definition of “equity” be added to the plan.
Inclusion of an implementation timeline	n/a	Appendix M, Preliminary Program Implementation Timelines, pg M77-113	n/a	Readability is still a challenge with this section – the font appears on the screen pixelated.	

+ On the Draft 1 program plan, DEQ evaluated comments received from 19 entities through the ORSAC review and public comment process.

On the Draft 2 program plan, DEQ evaluated comments received from 27 entities through the ORSAC review and public comment process.

DEQ notes in the column “Parties That Submitted Similar or Relevant Feedback” the subset of approximately 78 suggestions from these groups that overlap with DEQ recommendations and are outstanding. Thirty-seven of these comments were made on Draft 2, and 41 of these are Draft 1 comments pertaining to sections of the plan that were not revised in Draft 2 and for which the Draft 1 feedback is therefore still outstanding.

Key of organizations with outstanding recommendations that overlap with DEQ’s recommendations:

1. AF&PA – American Forest and Paper Association
2. AHAM – Association of Home Appliance Manufacturers
3. APR – Association of Plastic Recyclers
4. BAN – Basel Action Network
5. City of Portland (Draft 1 submission)
6. City of Portland and cosigners – City of Portland, Metro, City of Beaverton, City of Eugene, City of Gresham, City of Hillsboro, City of Lake Oswego, City of Troutdale, Clackamas County, Lane County, Multnomah County, Washington County, Bring Recycling (Draft 2 submission)
7. CMI – Can Manufacturers Institute
8. FPI – Foodservice Packaging Institute
9. GPI – Glass Packaging Institute
10. HCPA – Household & Commercial Products Association

11. Metro – Metro (Metropolitan Planning Organization for the Portland region) (Draft 1 submission)
12. OBI – Oregon Business & Industry
13. ORRA – Oregon Refuse and Recycling Association
14. ORSAC – Oregon Recycling System Advisory Council
15. OWA-OWC-WI – Oregon Winegrowers Association, Oregon Wine Council, and Wine Institute
16. Paktech
17. Ridwell