

Implementation of the Oregon Plastic Pollution and Recycling Modernization Act

Governor Kate Brown signed the Plastic Pollution and Recycling Modernization Act (Senate Bill 582) into law on August 6, 2021. The Department of Environmental Quality (DEQ) has been tasked with implementing the new law and informing interested parties. The law went into effect on January 1, 2022, and the start-up phase will span multiple years with extensive planning, research, rulemaking, and stakeholder engagement.

Program Goals

With the passage of SB 582, Oregon intends to:

- Share and scale responsibility across the state's recycling system.
- Increase access to recycling in Oregon, including apartments and rural areas.
- Prevent plastic pollution by ensuring materials are recycled responsibly.
- Create one uniform statewide collection list, creating efficiencies across the state.
- Incentivize sustainable products, with higher producer fees for non-recyclable products.
- Create accountability to outcomes through the DEQ and advisory council.
- Educate consumers on what materials can be recycled.

Covered Materials

The definition of covered materials in Oregon calls out certain material types: paper, plastic, glass, metal, or a mixture of materials. This includes non-packaging paper products such as printing paper, newspapers, and flyers. They also include single-use bags and food service ware, such as plates, cups, and straws.

The law exempts several materials, including:

- Beverage containers covered by Oregon's Bottle Bill
- Books
- Napkins and paper towels
- Pallets
- Specialty packaging used exclusively in industrial processes (such as cores for rolls of packaging sold to a packaging converter)
- Refillable propane tanks
- Items sold and used exclusively on farms
- Certain items used by nurseries
- Packaging hazardous substances that are required to be labeled with a prohibition on recycling
- Packaging and paper products supplied in connection with prescription and nonprescription drugs, animal medicines, infant formula and medical food

Also exempted are all items that are not ultimately discarded inside Oregon, architectural paint cans recovered through Oregon's paint stewardship program, and materials that meet other conditions involving recycling outside of the publicly managed commingled recycling collection systems in Oregon. In these cases, the fraction of covered products that meet criteria (e.g., sold into Oregon but then redistributed to another state) are exempted, while the remainder are covered products.

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Producer Responsibility Organization

Individual companies that sell or provide covered products in the state are required to join a third-party group that oversees complying with the program requirements, called a producer responsibility organization (PRO). Oregon allows more than one PRO to be formed and a producer must register with one of them. DEQ will approve PRO program plans that are submitted to the department by March 31, 2024 and meet the requirements of the law. PROs that hold a DEQ-approved program plan will begin implementation by July 1, 2025.

PROs are financially and operationally responsible for the collection and recycling of a specified list of covered products. The PRO in Oregon is charged with managing these “producer-collected materials,” which are a subset of the total amount of recyclables in the state. Other materials accepted in the state will continue to be collected via municipal programs. A PRO in Oregon may also be required to reimburse expenses of a local government for eligible costs related to covered products. The current estimate is that about 28% of system costs will shift to producers.

The law assigns obligations to producers based on the types of covered products:

- For food service ware - The obligated “producer” is the person that first sells the food serviceware into Oregon. In most cases, this will be the manufacturer of the food service ware or a distributor.
- For packaged items sold via physical retail sale - The obligated producer is typically the manufacturer of the packaged item (not the packaging itself), regardless of whether the manufacturer owns or licenses the brand under which the product is packaged. For example, a bakery that makes bagels under its own brand is the producer of the bagel packaging. It is also the producer of the bagel packaging if it makes bagels that are sold under a different brand, such as a retailer’s house brand. However, if the manufacturer of the packaged item (in this case, the bagel) is not located in the U.S., then the obligated producer is the entity that imports the packaged item into the country.
- For packaging or packaged items sold via remote sale - The person that packages and ships the item for sale into Oregon is the obligated producer of the packaging used in shipping. The producer of the original packaging of the sold product is the same as if the item were sold via physical retail sale.
- For newspapers, magazines, catalogs, telephone directories and similar publications - The obligated producer is the publisher.
- For all other printing and writing paper - The manufacturer of the printing and writing paper, if domestic, is the producer. If the paper is produced in another country, the importer into the U.S. is the producer.

There are some organizations that will be exempt from having to join the PRO. Exempt producers include the following entities:

- 503(c)(3) nonprofit organizations, public bodies, restaurants that are not producers of food service ware.
- Persons that operate a single retail sales establishment, have no online sales, and are not supplied or operated as part of a franchise or a chain.
- Entities that had gross (global) revenue of less than \$5 million in their most recent fiscal year or sold in or into Oregon less than one metric ton of covered products in the most recent calendar year.
- Manufacturers of beverages sold in containers covered by Oregon’s Bottle Bill that sold in or into Oregon less than five metric tons of other covered products in the most recent calendar year. While Bottle Bill materials are already exempted under Section 2(6), secondary and tertiary packaging (such as wine boxes and six-pack rings) will still be a covered product in most cases.

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Fees and Production Incentives

PROs are required to establish a graduated fee structure that is charged to members, using several mandatory criteria, including but not limited to recyclability, use of post-consumer recycled content and product-to-package ratio. Producers that incorporate these design features in their covered products will pay lower membership fees.

Oregon Recycling System Advisory Council

The legislation establishes a 19-member advisory council consisting of one member appointed by the House, one appointed by the Senate, and the Governor appointing the remaining seventeen members. The advisory council is tasked with advising the DEQ and PROs on issues related to the implementation of the Act.

Education

Local governments, along with new programs, will teach people about how to recycle and reduce contamination (trash) in recyclables. PROs will create accessible educational resources that local governments can use and that meet the needs of diverse communities.

Life Cycle Assessment

Under Section 33 of the law, “large producers” will be required to perform a Life Cycle Assessment (LCA) every two years. Section 33(2) requires the 25 largest producers to perform a life cycle assessment for at least one percent of covered products sold or distributed in or into the state every two years. This is an ongoing requirement, and it has no sunset date. Life cycle assessments conducted by large producers will be made available to the public and must be posted to the PRO’s website. Other requirements, such as standards for conducting these assessments, will be established by administrative rule in 2024.

Truth in Labeling Recommendations

As part of the implementation plan, several activities are occurring that have either recently concluded or are nearing completion. For example, the Oregon Truth-in-Labeling Task Force has submitted its final report and recommendations to the state legislature. The task force was directed to evaluate misleading or confusing recyclability claims on products or packaging. The task force also looked at barriers including the use of symbols that people of different backgrounds may not all understand, the size of images and font, lack of access to technology for smart labeling, colors that color blind people can’t differentiate between, and the use of abbreviations, acronyms, or terms that people with limited literacy may not understand.

The final report contains several recommendations to the legislature:

- Create a new definition of a recyclability claim that includes labeling the item “recyclable,” or any other like term, or if it has a symbol such as the chasing arrows symbol, or if it otherwise directs a consumer to recycle the consumer good. For example, any label that has a resin identification code (RIC) surrounded by chasing arrows would be included. Excluded from coverage would be any RIC that adheres to the ASTM standard for the RIC, which does not include chasing arrows surrounding the resin code, instead having the resin code being surrounded by a solid equilateral triangle.
- Only allow the items on the statewide local government collection list, beverage containers covered by the bottle bill, and those that can be dropped off at centers should be allowed to have a recyclability claim. All claims would need to follow the same standards for language and have any needed instructions concerning its drop-off recycling only.
- A mandated embedded consumer-facing recyclability smart labeling system, allowing five years for compliance starting on July 1, 2025, when PRO plans are supposed to start.

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- The DEQ should coordinate with other West Coast states to develop recycling acceptance lists.
- The state needs to support labeling improvements at the federal level that align with Oregon's.
- To make recycling label text accessible, it should be set off in a box by use of hairlines, having it be all black or in one-color type, printed on a white or other neutral contrasting backgrounds and that the font size should be at least 8-point, with 1-point of leading and footnotes no smaller than 6-point.

It is not clear what the deadline is for the legislature to act on the recommendations in the report. One of the task force's recommendations was to allow as much time as possible to allow for the transition to the new labeling recommendations.

Development of Statewide Accepted Recyclables Lists

The legislation mandates the creation of several statewide "accepted recyclables" lists of materials that can be recycled. The state Environmental Quality Commission (EQC), [a panel of five people](#) appointed by the governor, will approve the following lists:

- A list of all commingled recyclables that local governments and their contracted providers will be required to collect;
- A list of source-separated materials local governments and contracted providers will need to collect; and
- A list of materials that producer responsibility organizations (PROs) will be charged with collecting through drop-offs and special collection events.

The legislation includes criteria to be used to determine what is a "recyclable material" and includes elements such as the availability of end markets, ease of handling and recycling the material, the amount of supply available, contamination, health and safety factors, and environmental impacts.

The DEQ staff have indicated that some materials would be included without any hesitation for the statewide commingled recyclables list. This includes uncoated corrugated containers, newsprint, printing and writing paper, steel and aluminum cans, PET bottles and HDPE bottles. Mono-material polyethylene film is an example of a material that may land on the PRO recycling list but not the other two, because film gums up equipment at MRFs but is otherwise recyclable.

The DEQ has issued a request for technical information to help staff develop draft lists to bring to the EQC. The deadline to submit information was March 20, 2022. The DEQ anticipates bringing a package of regulations that includes the statewide lists to the EQC around September 2023.

Rulemaking Timeline

There are a series of rulemakings that must occur before final implementation in July of 2025.

The first rulemaking process is estimated to begin in late 2022, with draft rules brought to the Environmental Quality Commission (EQC) for consideration in late 2023. The rules will establish more details and requirements related to:

- Producer responsibility organization (PRO) plan requirements (including coordination plans);
- Standards for PRO compensation of local governments (Section 13); and
- Material lists for recycling – including collections provided by local governments and collections provided by PROs (Section 22).

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The second rulemaking process is estimated to begin in 2023, with draft rules brought to the Environmental Quality Commission (EQC) for consideration in mid-2024. The rules will establish more details and requirements related to:

- Commingled recycling processing facility permit and certification requirements, including living wages and benefits for facility workers (Sections 37 & 38);
- Contamination management fee and processor commodity risk fee (Sections 24 & 25);
- Waste Prevention and Reuse Fee to be paid by PROs (Section 32); and
- Life cycle assessment standards – Procedures and requirements to be used by producers when evaluating the life cycle impacts of covered products (Section 33).

Penalties

The Act includes penalties for non-compliance with a maximum penalty allowed of \$25,000 per day. This is the same cap that applies in statute to most other violations of solid waste and recycling statute. The actual penalty amount would be determined based on factors in administrative rules including violator size, history, impact, intent, and efforts to correct.

Resources

More information is available at the following resources:

- [Fact Sheet](#)
- [Frequently Asked Questions](#)
- [Implementation Timeline](#)
- [Public Involvement Timeline](#)

Disclaimer

The information published in this summary is derived from trusted sources and is believed to be the most accurate information at the time of publication, July 20, 2022. Due to the development of regulations and guidance, the information in this publication may become inaccurate or obsolete.

PRINTING United Alliance seeks to keep the printing industry updated on workplace requirements related to environmental compliance. For more information, or if you have questions on this or any other state regulatory issue, please contact Marci Kinter at mkinter@printing.org or Gary Jones at gjones@printing.org.

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