

SENT VIA EMAIL: Recycling.2023@deq.oregon.gov

To: Roxann Nayar, Oregon Department of Environmental Quality

From: Paloma Sparks, Oregon Business & Industry

Re: Draft recycling rules, Sept. 28 RAC

Date: October 5, 2022

Thank you for the opportunity to submit comments on the initial proposed rules for the Recycling Modernization program for Oregon Business & Industry members. OBI is Oregon's most comprehensive business association representing over 1,600 businesses that employ over 250,000 people. We represent multiple sectors and serve as the state's Retail and Manufacturing Councils.

Rule 1: PRO Compensation of Local Governments

First, we urge the rule to clearly state the upper limit of what the PRO (or PROs) will have to reimburse to the local governments. Even though this number could change, population estimates must be set annually to allow the PRO and its members to appropriately plan and budget. For example, under no circumstance should the total cost exceed \$3 per capita based on the previous year's population estimate for the state. Based on 2022 population estimates, that would mean that the maximum statewide local government reimbursement amount would be no more than \$12.8 million. The rule should, at a minimum, identify examples based on the most recent population data to give a comprehensive view of likely costs. Any reimbursement request should be based on the previous year's population estimate.

Second, the rule should clearly explain that if there are multiple PROs, the maximum a local government can be reimbursed will be capped at \$3 per capita from all PROs. In other words, the local government's reimbursement will be prorated among all PROs, rather than \$3 per capita per PRO.

Again, for budgeting purposes, reimbursements should be done on an annual basis. Allowing for multiple variations on timing will create logistical nightmares for the PRO and its members. A consistent approach must be established that all local governments must follow and annually makes the most sense at this point.

Rule 2: Expansion of Recycling Collection Services

It is essential that DEQ identify an upper limit for the costs associated with expansion of recycling collection services. The rule must take into account the planning, budgeting and communication that the PRO will need to do to communicate with its members. We urge DEQ to provide a true estimate for the total costs that PROs will be expected to absorb for the full program – all local government costs, DEQ fees, and any other costs. As currently written, it feels a bit like the PROs could face surprise costs every year with no real way to prepare. If

PROs must estimate funds that will be made available, then DEQ and local governments should similarly have to provide clear estimates of just how much the PROs will be expected to pay for.

The rule as currently written does not adequately reflect the statutory language that the local government must “commit” to expanding recycling opportunities before they are eligible for these funds. Additionally, the local government must work with the PRO to plan for the costs associated with expansion.

Rule 3: Annual Administration Fee

We continue to ask for actual details in this estimate, rather than simple numbers. How many FTEs? What will those roles be? How many contractors? How long will their contracts last? What will they be doing? The number DEQ has identified may well be appropriate, but it seems only fair that the agency identify just what this fee is paying for.

Rule 4: Responsible End Markets

We have concerns with how DEQ is characterizing societal benefits and costs. That broad of an interpretation is not reflected in the statute that legislators ultimately approved. Certainly, we hope that our work here to modernize Oregon’s recycling system will have an overall beneficial impact on society, but this law can not be expected to cure all potential ills related to waste disposal and recycling. The use of that terminology assumes far more than the environmental improvements the draft says it reflects.

Rule 5: Market Share and Modified Market Share

While we understand, this may be the easiest approach for DEQ, it does not reflect the legislature’s intent of using the traditional “market share” definition.

Rule 6: PRO Program Plan Timelines

No additional comments. From my reading this rule makes sense.

Thank you for considering our comments.