

Rulemaking Advisory Committee Meeting #6

Plastic Pollution and Recycling Modernization Act

April 11, 2023
Zoom Webinar

Agenda

Time	Topic
9 a.m.	Welcome, Overview of Today's Meeting
9:10 a.m.	Introductions
9:20 a.m.	Follow-up from RAC meeting #5
9:45 a.m.	Overview of draft rules
10 a.m.	Presentation and discussion- Racial Equity Statement
10:30 a.m.	BREAK
10:40 a.m.	Public Input Period
11:10 a.m.	Presentation and discussion- Fiscal Impact Statement
12 p.m.	LUNCH BREAK
12:30 p.m.	Continued discussion of Racial Equity Statement and Fiscal Impact Statement
1:50 p.m.	Closing remarks, next steps for public comment period, meeting adjourns at 2 p.m.

Note: Times subject to change and topics may begin and end earlier than listed

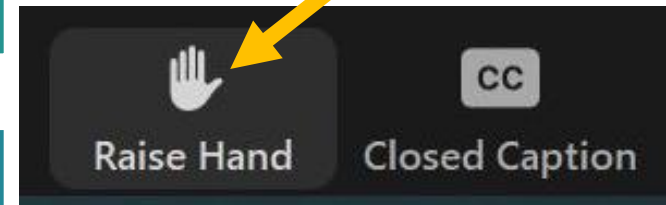
Webinar Tips

Join audio either by phone or computer, not both

For panelist discussion and comments, use the raise hand button to get in the queue; if by phone press *9

This meeting is being recorded

For Zoom technical issues email stephanie.caldera@deq.oregon.gov or text 971-279-9517



Meeting ground rules

- Listen and treat everyone with respect
- Allow one person to speak at a time – raise hand
- Move around and take care of yourself as needed
- Focus constructive comments racial equity and fiscal impact statements

Introductions- DEQ Staff



Cheryl Grabham, Program Manager, Materials Management Product Stewardship Team



Stephanie Caldera, Policy Analyst



David Allaway, Senior Policy Analyst



Arianne Sperry, Implementation Lead

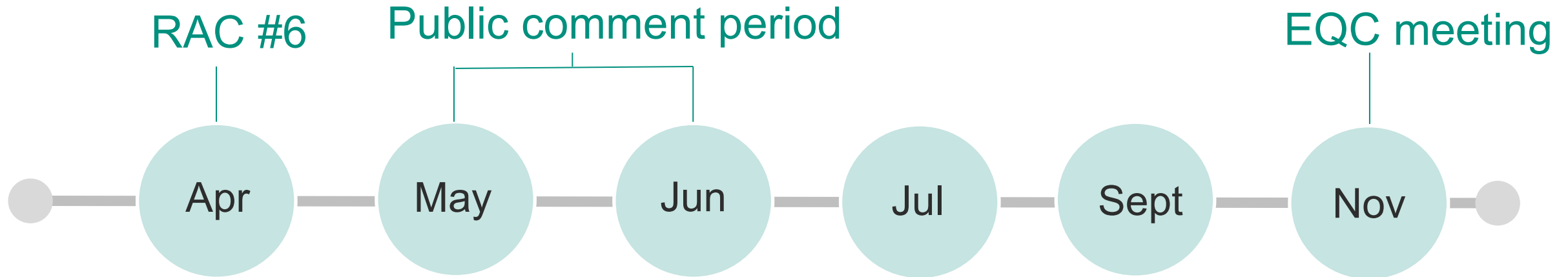


Roxann Nayar, Recycling Program Analyst

Input and Engagement

- Your input is strongly encouraged during and immediately after today's meeting,
- Comments on the draft rule language should be saved until the formal public comment period has opened

Rulemaking 1 Timeline



Follow-up from prior meetings

- Specifically identified materials
- Glass
- Transition period

Specifically Identified Materials

- Designation is an administrative action (not rulemaking)
 - Consultation with Recycling Council and PROs required
- Two consequences:
 - PROs must address SIMs in their program plan
 - May trigger PRO obligation to “responsible end markets” and etc. (ORS 459A.896(2))

Applies to materials collected for recycling and: a) on the PRO Recycling Acceptance List; b) on the Uniform Statewide Collection List; c) identified as a SIM; or d) recycled in an effort to achieve the statewide plastics recycling goal.

What Can Be a SIM?

Any covered product, including:

- An item on the Local Government Recycling Acceptance List (*e.g., polycoated and aseptic cartons*)
- An item on the PRO Recycling Acceptance List (*e.g., aerosol cans*)
- Any other covered product (*e.g., toothpaste tubes, motor oil bottles, PET thermoform clamshells*)

Glass

- Proposed rule concept (Dec. 28, 2022):
 - Mandatory on-route collection in Metro region (non-residential only)
 - PRO depots elsewhere (on-route collection possible)
- Screening level LCA (DEQ) and economic assessment (Cascadia/DEQ) arrive at conflicting results
 - Significant uncertainty and variability between communities
 - Future conditions add more uncertainty:
 - Bottle bill expansion?
 - Pozzolan end markets?

Glass (continued)

- Statute and rule provides additional support for voluntary on-route collection
- Today DEQ is confirming:
 - No change to our rule concept
 - On-route collection of glass may be justified (environmentally) in some additional cases
- Further study could be warranted . . .
. . . and results could still be highly site- and context-specific

Transition period update

By July 1, 2025:

- Producers must join a PRO
- PROs must begin implementing their program plan
 - Coordinated activities will start sooner
- Commingled recyclables must be directed to processing facilities that are permitted/certified
 - Permit/certification requirements begin (some ramp up)

Transition period update (continued)

- Uniform Statewide Collection List becomes effective July 1, 2025
- Extension possible for local governments waiting on PRO-funded capital (trucks, carts, reload facility) funded under the initial needs assessment

Overview of Draft Rules



State of Oregon Department of Environmental Quality

Plain Language Guide to Draft Rules

Plastic Pollution and Recycling Modernization Act (SB 582, 2021)
Rulemaking Advisory Committee Meeting 6 of 6, Rulemaking 1

Background

The Oregon Department of Environmental Quality is conducting the first of two rulemakings to clarify and implement the Plastic Pollution and Recycling Modernization Act. The objective of the rulemaking is to propose rules related to the following topics:

- Producer Responsibility Organization Plan content
- DEQ administrative fees
- Funding and reimbursement for eligible expenses incurred by local governments
- Materials approved for recycling collection in Oregon and for certain materials, collection targets, convenience standards and performance standards for recycling

Developing draft rules

DEQ began the rulemaking in July 2022 through a process that adheres to the public process requirements established in the Oregon Administrative Procedures Act. DEQ is developing program rules to propose for the Environmental Quality Commission's consideration. The EQC is a decision-making body that adopts proposed rules into Oregon administrative law.

A guide to the draft rules



State of Oregon Department of Environmental Quality

Draft Rules – Division 90

Plastic Pollution and Recycling Modernization Act 2023, Rulemaking 1
Rulemaking Advisory Committee Meeting 6 of 6

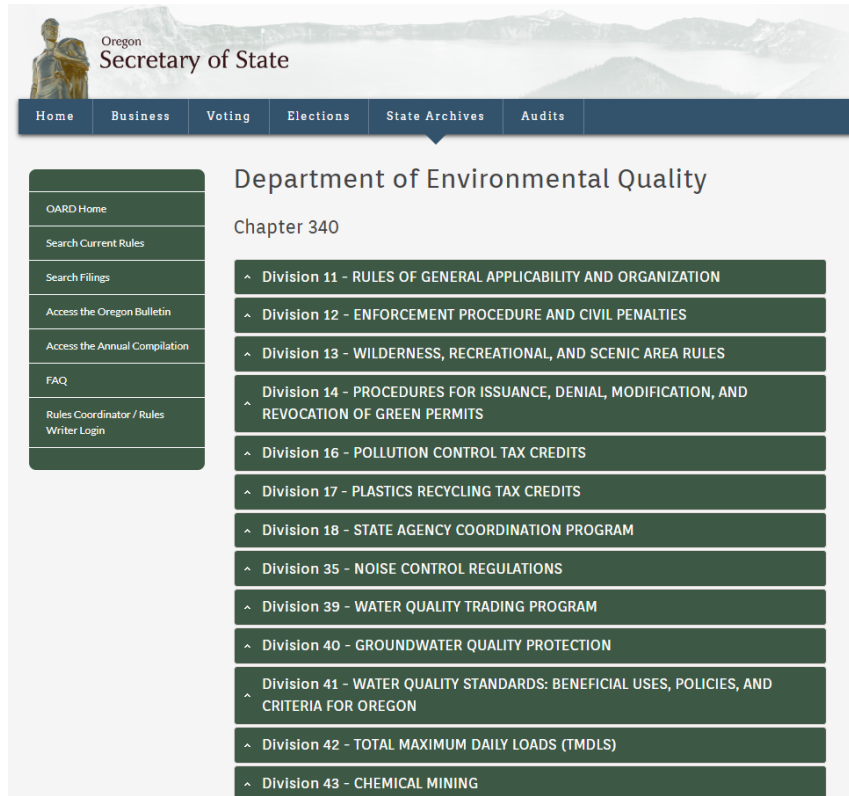
March 29, 2023

Division 90 Plastic Pollution and Recycling Modernization Act

Purpose and Applicability OAR-340-090-0610

These rules implement the requirements for the Plastic Pollution and Recycling Modernization Act. These rules also described Producer Responsibility Organization obligations, standards and methods for local government compensation, and the materials acceptance lists. The rules relate to the requirements of ORS 459A.869, 459A.872, 459A.875, 459A.878, 459A.881, 459A.884, 459A.890, 459A.896, 459A.914, and 459A.926.

Division 90



Oregon Secretary of State

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Department of Environmental Quality

Chapter 340

- OARD Home
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- Division 11 - RULES OF GENERAL APPLICABILITY AND ORGANIZATION
- Division 12 - ENFORCEMENT PROCEDURE AND CIVIL PENALTIES
- Division 13 - WILDERNESS, RECREATIONAL, AND SCENIC AREA RULES
- Division 14 - PROCEDURES FOR ISSUANCE, DENIAL, MODIFICATION, AND REVOCATION OF GREEN PERMITS
- Division 16 - POLLUTION CONTROL TAX CREDITS
- Division 17 - PLASTICS RECYCLING TAX CREDITS
- Division 18 - STATE AGENCY COORDINATION PROGRAM
- Division 35 - NOISE CONTROL REGULATIONS
- Division 39 - WATER QUALITY TRADING PROGRAM
- Division 40 - GROUNDWATER QUALITY PROTECTION
- Division 41 - WATER QUALITY STANDARDS: BENEFICIAL USES, POLICIES, AND CRITERIA FOR OREGON
- Division 42 - TOTAL MAXIMUM DAILY LOADS (TMDLS)
- Division 43 - CHEMICAL MINING

^ Division 90 - RECYCLING AND WASTE REDUCTION

Racial Equity Statement

- Requirements:
 - State agencies are required to provide a statement identifying how adoption, amendment, or repeal of proposed rules will affect racial equity in Oregon
 - Racial equity is not defined
 - The ordinary meaning of “racial equity” is treating people of all races fairly, justly and without bias.

Racial Equity- PRO Obligation Rules

Responsible End Markets will have **positive** impacts on **communities, worker safety, public health**

Racial Equity- LG Compensation Rules

Local Governments will be eligible for funding that has **positive** impacts on **recycling services**, **reducing** financial **barriers** and **supporting** **standards** for **service**

Racial Equity – Recycling Acceptance Lists

Recycling Acceptance Lists rules will have **positive** impacts with **convenience and performance standards, service standardization, service equity**

Discussion Questions

- What persons and groups are subject to the rules?
- What racial groups are likely to be most concerned and affected by the issues addressed in the rule?
- Is there any data that helps to determine racial equity impacts?
- What unintended adverse consequences might the rules have on racial equity?

Break



Public Input Period



Fiscal Impact Statement

- Requirements:
 - DEQ must provide notice of fiscal impact for proposed rules
 - Impacts can be both positive and/or negative

Fiscal Impact Statement

- RAC's role
 - Help DEQ consider fiscal and economic impact of the proposed rules
 - Is there a fiscal impact for certain entities and if so, what is the extent of the impact?
 - Is there a potential significant adverse impact on small businesses, and if so how can it be mitigated?
 - DEQ will consider this input as we review and update the initial draft fiscal statement for the public notice

Fiscal Impact Statement

- Required Elements

- Analysis of significant impacts of the proposed rule on:
 - » Large businesses
 - » Small businesses
 - » State and federal agencies
 - » Local government
 - » Public
- Possible mitigation measures for impacts on small businesses
- Housing cost

Fiscal Impact Statement



State of Oregon Department of Environmental Quality

Draft Fiscal and Racial Equity Impact Statement

Plastic Pollution and Recycling Modernization Act 2023, Rulemaking 1

Introduction

DEQ invites public comment on proposed rules and rule amendments to Chapter 340 of the Oregon Administrative Rules, related to the Plastic Pollution and Recycling Modernization Act ("Act"). The Act establishes a producer responsibility program for packaging, food serviceware, writing and paper products. The purpose of this first rulemaking is to address specific topics related to:

- Defining and clarifying Producer Responsibility Organization(s) obligations, including meeting responsible end market criteria, program plan timelines, the plan review and annual administration fees, market share and PRO coordination if multiple PROs operate in the state.
- Clarifying opportunities, requirements and procedures for local governments and their service providers to be eligible for funding and reimbursement for transportation costs, generator-facing contamination reduction programming, and recycling service expansion.
- Establishing Oregon's first statewide Local Government Recycling Acceptance List, Uniform Statewide Collection List, and PRO Recycling Acceptance List.
- Defining convenience standards, collection targets and performance standards for PRO recycling services.

The proposed rules and rule amendments included in this rulemaking are based on discussions with DEQ's rulemaking advisory committee which included members of the regulated community, community-based organizations, producer responsibility organizations and local governments. Additionally, information received during prior consultation with a technical working group, earlier meetings with interested parties from the service providers and local governments, PROs from other jurisdictions, other interested parties, and the public were also used to inform the topics subject to this rulemaking.

Not all requirements of the Act are addressed in this current rulemaking. Some will be addressed through a subsequent rulemaking, while others do not require rules to implement.

Fee Analysis

These proposed rules would establish new fees, as directed by legislation.

1

- Introduction
- Fee Analysis
- Statement of Fiscal and Economic Impact
 - Statement of Cost of Compliance
- Housing Costs

Statement of Fiscal and Economic Impact

Potential impacts on:

- State agencies
- Local governments
- Producer Responsibility Organizations

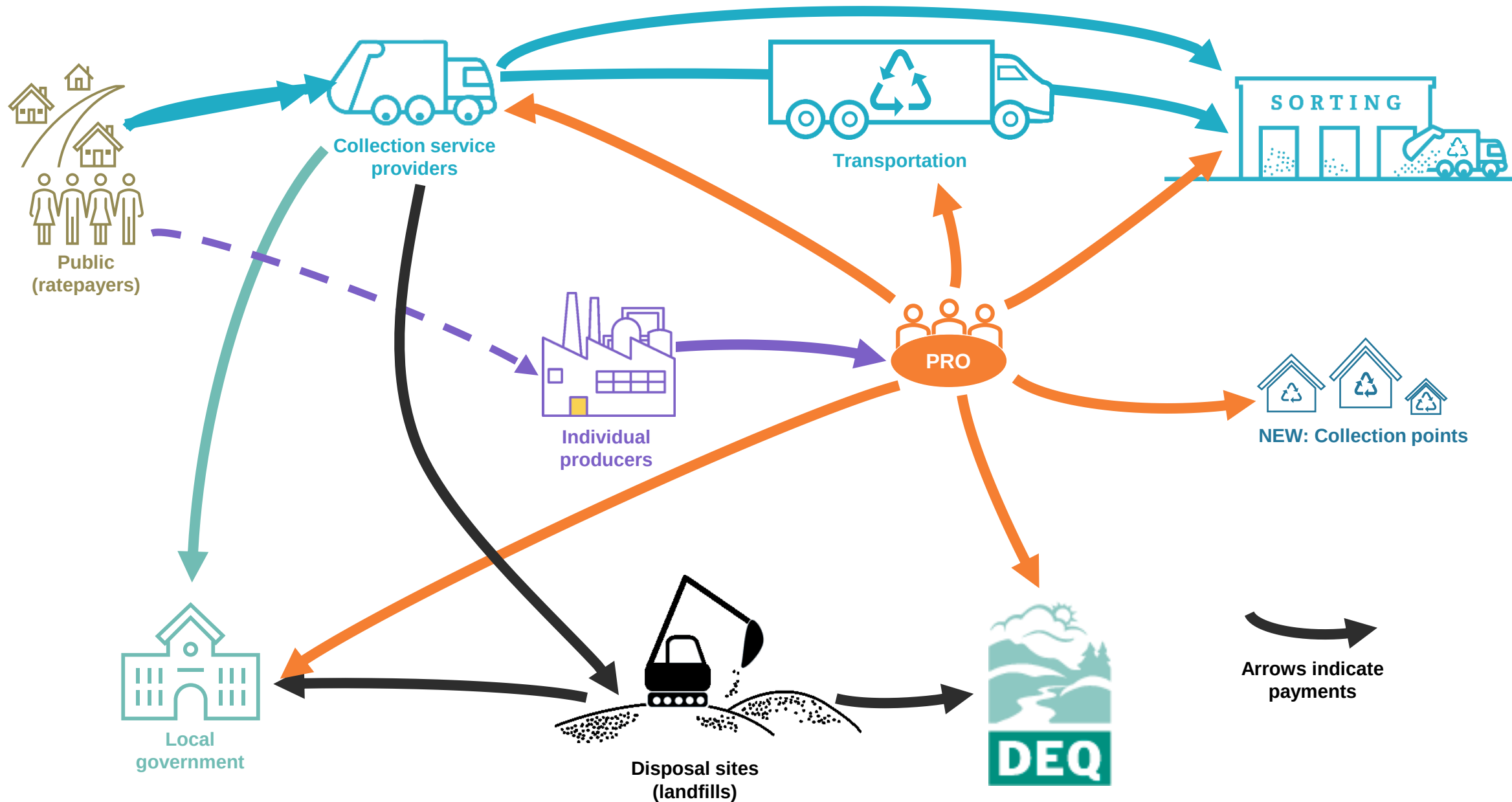
- The public

- Businesses

- Large
- Small

- Collection service providers
- Commingled processing facilities
- Producers
- System users

- Local government compensation rules
- PRO obligation rules
- Material acceptance list rules



Discussion Questions

- RAC's role
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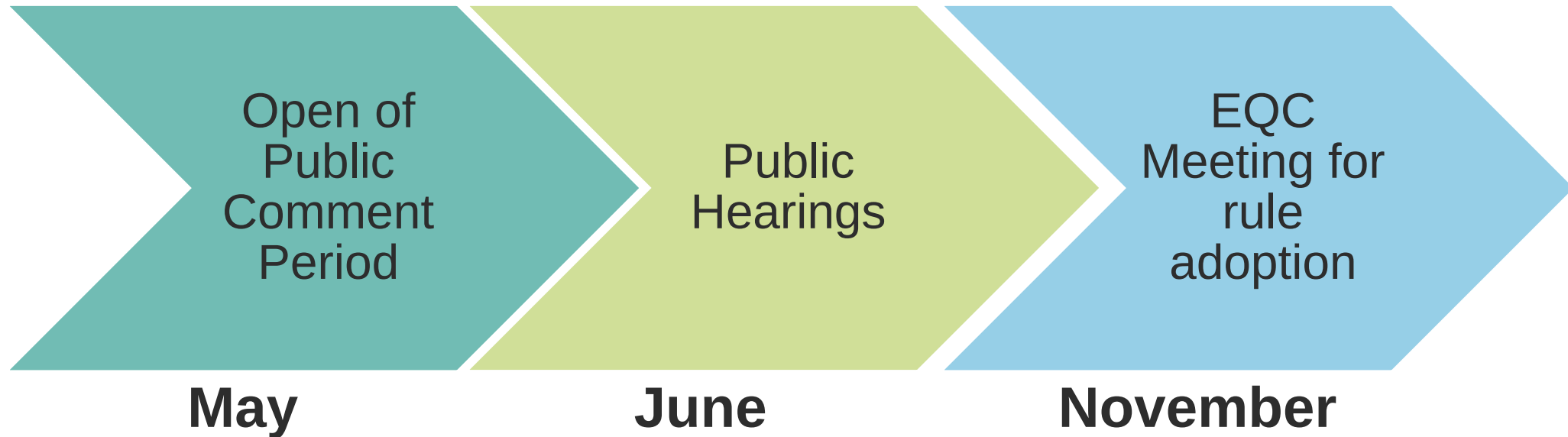
Lunch Break



Discussion continued



Next steps for rulemaking 1



Comments and Updates

Email formal public comments to:
recycling.2023@deq.oregon.gov

Sign-up for GovDelivery notifications

https://public.govdelivery.com/accounts/ORDEQ/subscriber/new?topic_id=ORDEQ_633

Thank you!



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