



SUMMARY OF CHANGES TO PRODUCER RESPONSIBILITY POLICY FROM 2.21.22 DRAFT TO 3.28.22 DRAFT

PROCESS CHANGES

- Removed language that the Dept was to “select a PRO” and changed the process to have the dept designate a single PRO to manage the program
- Transferred the “at large” voting member seat on the advisory board to a landfill or transfer center operator with onsite recycling services
- Changed the option for an additional PRO to form and submit a program plan after 2029 as needed to increase recycling rates or manage a specific type of materials; transitioned the alternative plan section to manage this additional PRO and additional program plan if submitted
- Replaced the referencing to soliciting public input to input from additional stakeholders

DEFINITIONS

- Revised definition of producer to flow as a hierarchy
- Updated definition of single-use food serviceware to include a broader range of materials
- Integrated food serviceware into the definition of packaging materials so products are managed consistently and subject to the same hierarchy of producers
- Construction contractors and restaurants are not considered producers
- Replaced definition of organics processing facilities with compost facilities that accept packaging materials
- Added definition of recycling services costs and expanded to include administrative, capital investment, collection, sorting, processing and disposal of non-recyclable collected materials

NEEDS ASSESSMENT

- Adding clarifying language around current costs, projected costs, capital infrastructure needs, and other data needs to fully understand the current recycling system and the gaps needed to fill to meet projected goals
- Added language to gather costs for providing services based on actual costs to the extent possible



- Added an evaluation of the demographic factors that influence the costs of recycling services and how those factors will inform the reimbursement rates paid to service providers, such as geographic area, types of services, density, etc.
- PRO will consult with the Advisory Board on which recycling, collection and post-consumer recycling rates to pursue based on the three scenarios evaluated in the needs assessment

SCOPE OF NONRESIDENTIAL RECYCLING SERVICES

- Scaled back definition of nonresidential entities from businesses to small businesses and from all educational institutions to just K-12 schools
- Added a study to the needs assessment of the recycling services provided to nonresidential entities, with a focus on small businesses, and an evaluation of which types and locations could be serviced cost-effectively to increase recycling rates. This will inform which applicable nonresidential entities could be added to the program after 2028.

PAYMENTS TO SERVICE PROVIDERS BY THE PRO

- Required information on the process for reimbursing service providers such as frequency of payments, terms, etc.
- Provided additional clarity on how the documented costs and cost factors from the needs assessment will inform the rates paid to service providers, and such rates must be based on an objective formula
- Added reimbursement for service providers for materials beyond what is on the minimum recyclable list, and clarified that providers are not restricted from accepting or processing additional materials regardless of reimbursement
- Reimbursement is based on per unit costs, but left this open to be per household, per ton, or other metric
- Required PRO to specifically consult with Advisory Board on rate structure for payments to service providers

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SUMMARY OF CHANGES TO PRODUCER RESPONSIBILITY POLICY FROM 1.13.21 DRAFT TO 2.21.22 DRAFT

GENERAL CHANGES

- Added legislative declaration on why this bill is needed and overall bill summary
- Small word changes to respond to questions, comments or confusion from stakeholders
- Extended timeline for major steps in bill, with overall program starting in January 2026

DEFINITIONS

- Updated definition of producer (based on Oregon language) to provide more specifics on the hierarchy of who is considered a producer based on type of materials
- Replaced recovery rate with collection rate
- Clarified most metrics are by weight, not volume
- Removed terms secondary and tertiary packaging and added more language on packaging used for transportation and distribution directly to a consumer
- Clarify recycling rate is measured when materials leave a MRF and collection rate is based on tons coming into the MRF (or similar facilities)

EXEMPTIONS

- Increased small business exemption to \$5 million in revenues based on stakeholder input
- Added exemption for producers who are required by state law to follow packaging subject to Poison Prevention Packaging Act

ADVISORY BOARD

- Added seats for compost facility, paper supply chain, environmental justice group, one open member; now 13 members total
- Clarified seat for collections is specifically for a hauler
- Clarified business seat is for a business association or chamber of commerce rather than a single business owner
- Added common state language that requires open board meetings
- Allow CDPHE to contract third party to support advisory board



PRO

- PRO board to include diverse membership from different material types, small businesses, and non-voting seats from trade associations

NEEDS ASSESSMENT

- Removed specific recycling rates in favor of three future scenarios
- Added language to specifically address needs of rural areas and align with four geographic regions in the state (based on state solid waste plan)
- Clarified language around refill/reuse targets
- Clarified how goals will be adopted based on the findings of the needs assessment
- Added language allowing for additional materials to be collected in different geographic areas in addition to minimum recyclables list

PROGRAM PLAN

- Added language for PRO to track compliance among producers and report non-compliance
- Give producers option to purchase recycled materials from MRFs
- Provided option for newspaper publishers to use in-kind advertising in lieu of PRO dues
- Added ability for sub-group of producers to self-select to charge additional fee on specific packaging and use funding to improve recycling for that packaging
- Added language to track contamination at organics processing facilities
- Require PRO to have a closure plan in case of failure

REIMBURSEMENT FOR SERVICE PROVIDERS

- Clarified the PRO would contract to provide services, not provide them directly

EDUCATION AND OUTREACH

- Clarify that the education program is designed to increase diversion and to help reduce contamination at recycling facilities and organics processing facilities
- Added language for PRO to build upon existing education and outreach materials and service providers, consult with the advisory board and existing service providers on education materials, and allow contracting with existing entities to develop or implement outreach efforts
- Clarified this policy does not preclude other entities from doing outreach



REPORTING

- Added reporting on number of entities receiving services by county to track expansion of recycling services over time
- Allows producers to report using national average data rather than state specific data for post-consumer recycled content
- Added language to require reporting on efforts to ensure responsible end-market destinations and criteria for any markets using means other than mechanical recycling
- Added reporting on PRO reserve funds and need to be sufficient to cover contingencies

ENFORCEMENT

- Clarified rulemaking is only for enforcement of this statute and only covers producers and the PRO; this policy does not give CDPHE to enforce recycling at covered entities
- Clarified rulemaking by Solid and Hazardous Waste Commission, not CDPHE director
- PRO reimbursement to state agency for enforcement costs
- Clarified Dept of Law will provide legal assistance to CDPHE for enforcement

NEXT STEPS

We are committed to continue to listen to stakeholder feedback and to meet with individual stakeholders. If you have additional questions or feedback, please send specific comments and suggestions via email or contact us to set up a meeting to discuss feedback.

Producer Responsibility in Colorado has strong bipartisan support from local governments, consumer goods companies, recycling businesses, environmental groups, and many more. For more information, please contact:

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