



## Oregon Product Stewardship Legislation – Outline

### Key Definitions

1. “Covered entity” means a resident, household, non-profit organization, government or business that utilizes a product stewardship program to recycle, reuse or safely discard an unwanted product.
2. “Producer” means a person:
  - a. Who manufactures a covered product and who sells, offers for sale or distributes that product in Oregon under the manufacturer’s own name or brand;
  - b. If subparagraph (a) does not apply, who is not the manufacturer of the product but is the owner or licensee of a trademark or brand under which a product is sold or distributed in Oregon, whether or not the trademark or brand is registered; or
  - c. If subparagraph (a) and (b) do not apply, who imports the product into Oregon for sale or distribution.
3. “Product” means the single item or group of similar items specified by the Legislature and any components, historical or orphan products of the same.
4. “Product stewardship plan” means a statewide plan for the collection, transportation, recycling, reuse and disposal of specified products that is developed and provided by a producer or stewardship organization as part of its product stewardship program.
5. “Retailer” means a person that offers new products for sale at retail through any means, including remote offerings such as sales outlets, catalogs, or the Internet.
6. “Sell” or “sale” means any transfer of title for consideration, including remote sales conducted through sales outlets, catalogs, of the Internet or any other similar electronic means.

### Rules

1. Environmental Quality Commission is authorized to adopt rules necessary to implement the act.
2. The Department may adopt rules to implement the general requirements of the product stewardship program common for all products.



3. Following legislative designation of a product, the Department must appoint a product-specific advisory committee and develop and adopt a product-specific rule to implement the product stewardship program. The product-specific rule must address the following:
  - Covered entities;
  - Environmentally sound management practices;
  - Performance goals, and their metrics;
  - Product goals, if applicable;
  - Disposal ban, if applicable;
  - Implementation date(s) for product stewardship program;
  - Design incentive options, if applicable;
  - Department fees; and
  - Any other requirements relevant to the management of a product under a product stewardship program.
4. The Department must appoint an advisory committee to advise on the development of each product-specific rule. The committee must have nine members and, at minimum, one member must represent each of the following groups: producers, local governments, environmental groups, the solid waste industry, the retail industry and consumers or covered entities.

### **Collaboration**

1. Department must collaborate with producers, retailers, solid waste industry, environmental groups, consumers, federal government, and local government.
2. *To the greatest extent possible, the Department shall coordinate with other states and strive for consistent program development and implementation.*
3. *The Department, other state agencies, local governments, retailers, nonprofits, the solid waste industry, and others must collaborate with producers to promote the proper management of unwanted products and the use of product stewardship programs.*

### **Product Selection**

1. *Every two years the Department, after consultation with the standing advisory committee established by law, may identify a list of potential products for a product stewardship program.*
2. *Department must hold at least one public meeting on the list of potential products.*
3. *Using input from the advisory committee, public comment, and other relevant information, the Department will identify a short list of products for further evaluation.*
4. *Evaluation of the short list of products must consider the following factors:*



- *Potential to reduce waste, toxicity, greenhouse gas emissions, or other environmental factors;*
  - *Potential to encourage product design that reduces environmental impacts;*
  - *Current or future contribution to the solid waste stream in amount or toxicity;*
  - *Public demand or need for waste reduction programs and environmentally safe management;*
  - *Producer readiness for product stewardship*
  - *Fiscal impacts for local government, producers, retailers, consumers and other affected parties;*
  - *Any other consideration relative to managing the product at end-of-life.*
5. *After product evaluation and consultation with the standing advisory committee, the Department will draft a list of recommended product(s).*
  6. *The Department must hold at least one public meeting and post the recommended products on its website for 30 days to gather input on the proposed recommendations.*
  7. *The Department will evaluate the public input, consult with the Advisory Committee, and recommend proposed products to the Environmental Quality Commission.*
  8. *The Commission reviews and may forward approved recommendations to the Legislature for consideration at the next regular legislative session.*
  9. *Products to be managed under a product stewardship program as provided by this act must be designated by legislative enactment.*
  10. *The Department shall appoint and convene a standing advisory committee to provide technical information and advice regarding the identification, evaluation and recommendation of products. The committee must have at least eleven members and, at a minimum, one member must represent each of the following groups: producers, local governments, environmental groups, the solid waste industry and the retail industry. The Department must make a reasonable effort to ensure that the membership of the committee is balanced.*

## **Product List**

This section will contain the list of products and their specific definition as adopted by the Legislature.

## **Producer Requirements**

1. Producers must establish, finance, and operate statewide product stewardship programs for the designated products. The programs must:



- Follow a Department approved plan, any applicable rules, and this act;
  - Provide collection, transportation, reuse, recycling, and disposal of designated products and their components;
  - Provide adequate insurance and financial assurance;
  - Provide an education and outreach component to consumers, retailers, and other interested parties;
2. Producers may operate the program individually, collectively with other producers, or enter into an agreement with a stewardship organization to operate the program on their behalf.
  3. Product stewardship programs must be provided free of charge to covered entities (anyone with an unwanted product as defined in rule).
  4. Producers may not sell the product in or into Oregon without being a part of an approved plan and program.
  5. Products sold in and into Oregon must have a visible and permanently affixed brand.
  6. Producers must provide statewide collection that is convenient, available, and free to covered entities. There must be at least one collection site in every county and in every city with a population of at least 10,000.

## **Performance and Product Goals**

1. Performance goals: Each product adopted by the Legislature will have performance goals. The Department will establish by rule how performance goals will be measured. For the first 4 operating years of the program, the producers will establish the goal amounts and report on progress toward achieving the goals but such goals are not enforceable. In operating year 5, the Department will set specific, enforceable regulatory standards for the performance goals. Performance goals must include:
  - a. Absolute amount collected, or absolute amount collected per capita;
  - b. Collection rate; and
  - c. Processing or disposition rate for reuse, recycling, energy recovery or disposal, if appropriate.
2. Product goals: Each product adopted by the Legislature will have product goals. The product goals will be optional for each manufacturer and will be incentive driven, not enforceable. The product goals will be specific to the product and designed to achieve product changes that will result in environmental improvements such as:
  - a. Toxics minimization or elimination in the product or its manufacture;
  - b. Product durability and repairability; and
  - c. Greenhouse gas reductions related to the manufacture and use of the product.



3. Department must establish product specific incentives for product goals (including some type of proportional “credit” towards applicable performance goals).

### **Product Stewardship Plan**

1. Producers or stewardship organizations representing producers must submit a product stewardship plan to the Department for approval prior to operating their product stewardship program. Plans must be updated, submitted, and approved at least once every four years.
2. The plan must address the following:
  - a. Producer information including:
    - Contact information;
    - Description of stewardship organization, if applicable;
    - Identification of producers’ products and associated brands covered by the plan and program.
  - b. Performance and product goals including:
    - Statement of annual performance goals;
    - How performance goal amounts were determined (for first 4 years of operation);
    - Statement of any product goals and target achievements if applicable;
    - Background information on work related to achieving any applicable product goals.
  - c. Collection system information, including:
    - How the system will be available, convenient, accessible, and free of charge for all covered entities in urban and rural areas of the state;
    - How waste products will be collected in all counties in the state and all cities with populations of at least 10,000.
  - d. Implementation of Environmentally Sound Management Practices including
    - How applicable laws, regulations, and practices will be implemented and met for collection, transportation, reuse, recycling or disposal of unwanted product.
  - e. Financing, including:
    - How the product stewardship program will be financed;
    - The mechanism for securing and dispersing funds to cover administrative, operations, and capital costs;
    - Demonstration of adequate insurance and financial assurance.
  - f. Outreach and education, including:



- Type and delivery of information to consumers regarding how to use and access the product stewardship program;
  - How and what information will be provided to collectors, recycler, retailers, and other interested parties;
  - How the producer or stewardship organization will collaborate with state and local governments, retailers, and other interested parties to assure a consistent and uniform message to consumers.
- g. Public and stakeholder consultation, including:
- Opportunities for the public and other stakeholders to comment on the plan prior to submission to the Department for review;
  - Opportunities for the public and other stakeholders to comment on implementation and operation of the product stewardship program.
  - Posting of approved plan on producers' websites.
3. *If the Department determines that the plan complies with the product stewardship act and any applicable rules, and it is in the public interest, it must approve the plan.*
4. Plans must be submitted to the Department within 180 days following the adoption of product-specific rules. There is a 90 day Department review period and a 90 day producer response to review period.

### **Producer and Stewardship Organization Annual Report**

1. Producers or stewardship organizations representing producers shall report annually to the Department generally on all of the elements of their approved plans, including specific performance and product goals. Reports are due 45 days following the end of a products operating year.
2. Specific reporting requirements may be established in rule by the Department.

### **Product Stewardship Program Implementation**

1. Producers or stewardship organizations must implement the program according to the approved plan.
2. Producers may join already approved plans or may remove themselves from approved plans without the Department's written approval. They are required to notify the Department within 15 days of such action.
3. As of the implementation date established in the product-specific rule, a producer, retailer or other person may not sell or offer for sale a brand of product to any person in this state unless the producer is participating in a product stewardship program with a Department approved plan.



4. The Department must make available on its website a current list of producers and their brands covered by an approved plan.

Retailers must provide consumers, at the time of sale, information on where and how to recycle or dispose of unwanted products through a product stewardship program.

## **Fees**

The Department shall establish a schedule of fees and collect fees from producers in amounts to fully cover, but not exceed, costs to the Department *for providing plan review, approval, and program development, oversight and compliance for the type of product for which the producer is responsible*. Producers shall pay fees according to the adopted fee schedule.

## **Disposal Ban**

1. Disposal bans shall be product specific and evaluated as part of each product specific rule process.
2. Nothing will prohibit a disposal site operator from accepting and storing, for the purposes of recycling or recovering, any of the types of solid waste listed as banned from disposal.
3. Environmental Quality Commission may postpone a disposal ban in any area of the state where it determines there is an inadequate system for collection, transportation, reuse, and recycling.
4. Disposal site operators shall establish, in conformance with their permits, a system reasonable designed to prevent acceptance of banned waste. If they operate in conformity to the established system, it will be presumed they have complied with the requirement that they cannot knowingly accept banned waste.

## **Report to the Legislature**

The Director of the Department shall submit a report to the Legislature regarding the implementation of the statewide product stewardship program, including recommendations for legislation on or before December 1, 2014.

## **Penalties**

Proposed legislation will include standard solid waste penalty and enforcement provisions as provided in ORS 459.995

