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E-Cycles 2024

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Division 98

MATERIALS MANAGEMENT: PRODUCT STEWARDSHIP PROGRAMS

340-098-0000

Applicability

(1) OAR 340-098-0000 to ~~OAR 340-098-0200~~ OAR 340-098-0270 ~~apply to manufacturers of covered electronic devices sold or offered for sale in the State of Oregon for calendar years 2012 and beyond~~ clarify requirements regarding electronics producer responsibility programs under ORS 459A.305 to 459A.355. OAR 340-098-0100 to OAR 340-098-0200 are in effect until and including December 31, 2025. OAR 340-098-0230 to OAR 340-098-0270 are effective February 1, 2025.

(2) OAR 340-098-0000, OAR 340-098-0010, and 340-098-0300 to OAR 340-098-0390 prescribe requirements and procedures for participating in, submitting program plans for, and operating, drug take-back programs under ORS 459A.200 to 459A.266.

(3) OAR 340-098-0000 and OAR 340-098-0400 to OAR 340-098-0460 clarify requirements of the Mattress Stewardship Act, SB 1576 (2022).

Statutory/Other Authority: ORS 468.020, 468.065, 459A.345 & SB 1576 (2022)

Statutes/Other Implemented: ORS 459A.315 & SB 1576 (2022)

History:

DEQ 8-2023, amend filed 07/20/2023, effective 07/21/2023

DEQ 18-2020, amend filed 09/21/2020, effective 09/21/2020

DEQ 4-2012, f. & cert. ef. 6-26-12

340-098-0010

Definitions

~~(1) Terms used in OAR 340-098-0000 through 340-098-0200 have the meaning provided in ORS 459A.305. Terms used in OAR 340-098-0300 to OAR 340-098-~~

~~0390 have the meanings provided in ORS 459A.200 and ORS 459A.209.~~ Definitions for additional terms used in OAR Chapter 340, Division 98 are:

~~(1)~~ (a) "DEQ" means the Department of Environmental Quality.

~~(2)~~ (b) "Fiscal year" means the period beginning on July 1 of any year and ending on June 30 of the next year.

(2) Terms used in ~~OAR 340-098-0000~~ OAR 340-098-0100 through 340-098-0200 have the meaning provided in ORS 459A.305. Definitions for additional terms used in OAR 340-098-0100 through 340-098-0200 are in sections (3) and (4).

(3) As used in OAR 340-098-0100 to OAR 340-098-0200:

(a) "Market share" means the percentage of the total number of units of covered electronic devices sold in or into Oregon the previous calendar year or most recent four quarters for which data is available, as determined by DEQ.

~~(4)~~ (b) "Revenue need" means the total amount of revenue DEQ must collect in registration fees in order for the registration fees to approximately match DEQ's projected costs for implementing ORS 459A.305 to 459A.355, excluding costs incurred under ORS 459A.340(4).

(4) As used in OAR 340-098-0230 to OAR 340-098-0270:

(a) "Collection site" means a collector that, notwithstanding any premium services offered, accepts all categories, types and brands of covered electronic devices at no charge to covered entities.

(b) "Computer monitor" includes:

(A) A cathode-ray tube monitor;

(B) A flatscreen monitor;

(C) A touchscreen monitor, such as an interactive whiteboard or panel

(c) "Desktop computer" includes:

(A) A thin client;

(B) A mini, single-board, or small form factor personal computer; or

(C) An all-in-one computer.

(d) “Covered electronic device materials” means a covered electronic device, a component of a covered electronic device, or a material from a covered electronic device.

(e) “Final disposition” means the point beyond which no further processing or refurbishing occurs and covered electronic device materials have been sold as whole units of covered electronic devices for reuse; disposed of; or processed into recycled materials for a market.

(f) “Peripheral” means:

(A) A keyboard, mouse or other device sold exclusively for external use with a covered electronic device as a wireless or corded device that provides input into, or output from, a covered electronic device, including:

(i) A controller for a covered electronic device, such as a game controller, a joystick, or a flight simulation controller;

(ii) A docking station;

(iii) Headphones or ear buds;

(iv) A standalone speaker intended for use with covered electronic devices, but not a speaker intended for amplifiers or sound systems;

(v) An external drive;

(vi) A digital or media streaming device;

(vii) A web camera;

(viii) A headset, including an augmented reality or virtual reality headset; or

(ix) A power adapter charger.

(B) Cords used with a keyboard, mouse or other device described in subparagraph 5(f)(A) of this rule.

(g) “Portable computer” includes:

(A) A laptop;

(B) A tablet; or

(C) An e-reader.

(h) “Processor” means a person who recycles or otherwise processes covered electronic device materials derived from collected covered electronic devices.

(i) “Refurbish” means to repair a used covered electronic device in order to restore or improve the covered electronic device so that the device may be used for the same purpose for which it was originally designed.

(j) “Service provider or downstream vendor” means a person, including a collector, processor, refurbisher, or broker, receiving a covered electronic device or covered electronic device materials from the time the covered electronic device is collected by an electronics producer responsibility program through final disposition of the covered electronic device materials in that covered electronic device.

(5) Terms used in OAR 340-098-0300 to OAR 340-098-0390 have the meanings provided in ORS 459A.200 and ORS 459A.209.

Statutory/Other Authority: ORS 468.020, 468.065 & 459A.345

Statutes/Other Implemented: ORS 459A.305 & 459A.315

History:

DEQ 18-2020, amend filed 09/21/2020, effective 09/21/2020

DEQ 4-2012, f. & cert. ef. 6-26-12

340-098-0100

Revenue Need

(1) Revenue need. The revenue need for the fiscal year beginning:

(a) July 1, 2012 is \$415,000;

(b) July 1, 2013 is \$435,000;

(c) July 1, 2014 is \$435,000; and

(d) July 1, 2015 and for subsequent fiscal years is \$465,000.

(2) Revenue need adjustments.

(a) If the revenue collected from registration fees under OAR 340-098-0150 exceeds DEQ’s actual costs for the program, DEQ will reduce the revenue need by the excess amount in a subsequent year. DEQ will also evaluate whether to revise the revenue need for future years to ensure that revenue need approximately matches DEQ’s projected costs for implementing ORS 459A.305 to 459A.355, excluding costs incurred under ORS 459A.340(4).

(b) If DEQ has been unable to collect revenue from registration fees owed for a prior year, DEQ may add the amount of uncollected revenue to the revenue need in a

subsequent year as necessary to ensure that revenue approximately matches DEQ's projected costs as described in subsection (a). DEQ will make good faith efforts to collect registration fees owed.

(3) Reporting. Each fiscal year DEQ will report its current and projected program expenditures and revenue.

Statutory/Other Authority: ORS 468.020, 468.065 & 459A.345

Statutes/Other Implemented: ORS 459A.315

History:

DEQ 4-2012, f. & cert. ef. 6-26-12

340-098-0150

Registration Fees

Section (1) describes generally how DEQ determines registration fees, and sections (2) through (4) provide the specific process for determining registration fees.

(1) Overview. Each year manufacturer registration fees total the revenue need for that year. DEQ assigns manufacturers to registration fee Tiers 1-7 based on their market share. All manufacturers within a tier pay the same registration fee in any given year. Manufacturers in Tier 6 pay a fee of \$200. Manufacturers in Tier 7, with the smallest market share, pay \$40. Fees for manufacturers in Tiers 1-5 are calculated each year to total the revenue need remaining after subtracting the revenue expected from Tiers 6 and 7. To determine the manufacturer fee for each of Tiers 1-5, the total market share for all manufacturers in a tier is multiplied by the remaining revenue need. That revenue share for the tier is then divided by the number of manufacturers in the tier to determine the fee for those manufacturers. DEQ then adjusts the fees for Tiers 1-5 so that no fee is more than \$35,000 or less than \$200. If the fee for any tier is over \$35,000, DEQ caps the fee at \$35,000, and distributes the amount of unallocated revenue from that tier to lower tiers in proportion with their market share (excluding Tiers 6 and 7). If the resulting fee for any tier is below \$200, DEQ raises the fee to \$200 for that tier and recalculates the fees for the higher tiers as described above for Tiers 1-5.

(2) Total registration fees. Each year the total registration fees of manufacturers required to pay a registration fee under ORS 459A.315 and OAR 340-098-0000 through 340-098-0200 will equal the revenue need for the fiscal year beginning July 1 of that year.

(3) Registration fees. For each year after 2012, each manufacturer will pay a registration fee described in this section:

(a) Registration fees will be based on the following fee tiers:

(A) Tier 1 includes all manufacturers with a market share greater than or equal to 5%;

(B) Tier 2 includes all manufacturers with a market share greater than or equal to 1% but less than 5%;

(C) Tier 3 includes all manufacturers with a market share greater than or equal to 0.1% but less than 1%;

(D) Tier 4 includes all manufacturers with a market share greater than or equal to 0.03% but less than 0.1%;

(E) Tier 5 includes all manufacturers with a market share greater than or equal to 0.01% but less than 0.03%;

(F) Tier 6 includes all manufacturers with a market share less than 0.01% that equates to 50 or more units.

(G) Tier 7 includes all manufacturers with a market share that equates to less than 50 units.

(b) The registration fee for each manufacturer in Tier 6 will be \$200. The registration fee for each manufacturer in Tier 7 will be \$40.

(c) The registrations fees for manufacturers in Tiers 1-5 will equal the revenue need remaining after subtracting the revenue expected from Tier 6 and 7 fees.

(d) For Tiers 1-5, except as adjusted by subsections (3)(f) through (3)(i), the total registration fees for each tier will be a percentage of the remaining revenue need that is equal to the total market share of the manufacturers in that tier.

(e) For Tiers 1-5, except as adjusted by subsections (3)(f) through (3)(i), the registration fee of each manufacturer in a given tier will be the amount of the remaining revenue need that the manufacturer's tier is responsible for, as stated subsection (3)(d), divided by the number of manufacturers in that tier.

(f) For Tiers 1-5, the registration fee for manufacturers in any tier will not be more than \$35,000. The registration fee for manufacturers in a tier in which the registration fee is calculated to be more than \$35,000 will be adjusted to \$35,000.

(g) For Tiers 1-5, after the registration fee adjustments described in subsection(3)(f), the registration fees of each manufacturer in a tier with registration fees below \$35,000 will also be adjusted so that total registration fees still equal the remaining revenue need, as follows:

(A) Fee adjustment = $(W \times (X \div Y)) \div Z$.

(B) "W" is the net amount of registration fees above \$35,000.

(C) "X" is the total market share of all the manufacturers in the manufacturer's tier.

(D) "Y" is the total market share for all manufacturers in tiers 1-5 with registration fees below \$35,000, excluding manufacturers whose fees have been adjusted to \$200 in accordance with subsection (3)(i).

(E) "Z" is the total number of manufacturer's in the manufacturer's tier.

(h) If any manufacturer in Tiers 1-5 would pay a registration fee greater than \$35,000 after the process described in subsection (3)(g), the process described in subsections (3)(f) and (3)(g) will be repeated until no manufacturer pays a registration fee greater than \$35,000.

(i) After the process described in subsections (3)(f) through (3)(h) has been completed, the registration fee for any manufacturer in Tiers 1-5 in which the registration fee is calculated to be less than \$200 will be adjusted to \$200. The total revenue from all fees in tiers for which fees are raised to \$200 will be subtracted from the remaining revenue need and the fees for all higher tiers will be recalculated to meet that adjusted revenue need as described in subsections (3)(d) through (3)(i). The process described in subsections (3)(d) through (3)(i) will be repeated until no manufacturer pays a registration fee less than \$200.

(4) 2012 fees. Manufacturers will pay registration fees in ORS 459A.315(2)(b) for calendar year 2012, except:

(a) If the total revenue to be collected under the method described in ORS 459A.315(2)(b) is less than the revenue need for 2012, DEQ will calculate each manufacturer's registration fee according to OAR 340-098-0150(3);

(b) The registration fees of manufacturers whose registration fees would be at least \$250 higher calculated under OAR 340-098-0150(3) than under ORS 459A.315(2)(b) will be adjusted so that the total registration fees for 2012 equal revenue need; and

(c) Each manufacturer described in subsection (4)(b) will pay the following registration fee adjustment: $\text{Fee adjustment} = (A \times (B \div C)) \div D$ where:

(A) "A" is the difference between the revenue need and the amount to be collected under the method described in ORS 459A.315(2)(b);

(B) "B" is the total market share of all manufacturers in the manufacturer's tier;

(C) "C" is the total market share of all manufacturers described in subsection (4)(b); and

(D) “D” is the total number of manufacturers in the same tier as the manufacturer.

Statutory/Other Authority: ORS 468.020, 468.065 & 459A.345

Statutes/Other Implemented: ORS 459A.315

History:

DEQ 4-2012, f. & cert. ef. 6-26-12

340-098-0200

Notifications

(1) Preliminary determination. Beginning in 2013 and each year thereafter [until and including 2025](#), DEQ will make a preliminary determination of each manufacturer’s market share and fee tier for that fiscal year and notify each manufacturer of that determination.

(2) Change requests. Each manufacturer will have 30 days to request changes to the preliminary market share and fee tier determination. A manufacturer requesting a change must provide DEQ the relevant information the manufacturer believes supports the change and any other information requested by DEQ to evaluate the requested change.

(3) Final determination. After the 30-day period described in section (2), DEQ will make a final determination of each manufacturer’s market share and fee tier and notify each manufacturer of that determination. In making the final market share and fee tier determinations, DEQ will use the best available information as determined by DEQ including any relevant information provided by manufacturers under section (2).

Statutory/Other Authority: ORS 468.020, 468.065 & 459A.345

Statutes/Other Implemented: ORS 459A.315

History:

DEQ 4-2012, f. & cert. ef. 6-26-12

340-098-0230

Electronics Producer Responsibility Organization Fees

[\(1\) Plan review fee. The plan review fee is \\$75,000. An electronics producer responsibility organization must pay the plan review fee before submitting its initial plan for an electronics producer responsibility program.](#)

[\(2\) Annual fee.](#)

[\(a\) For 2026 and for each year thereafter, the annual fee is \\$315,000.](#)

(b) Each electronics producer responsibility organization with an approved plan to operate an electronics producer responsibility program in the year to which the annual fee applies must pay an equal share of the total annual fee.

(c) DEQ may reduce the annual fee for a given year to ensure fee revenue approximately matches DEQ's projected costs for that year.

(d) An electronics producer responsibility organization must pay DEQ the annual fee by the later of

(A) June 1 of each year; or

(B) Thirty days after DEQ sends the annual fee invoice.

Statutory/Other Authority: ORS 468.020, 468.065 & 459A.345

Statutes/Other Implemented: ORS 459A.334

340-098-0235

Program Plans

(1) DEQ may require a prospective electronics producer responsibility organization to submit a letter of intent to DEQ declaring the electronics producer responsibility organization's intention to submit a program plan for the implementation of an electronics producer responsibility program.

(2) Unless directed otherwise by DEQ, an electronics producer responsibility organization must submit a program plan by July 1 in a given year for the implementation of an electronics producer responsibility program in the following calendar year.

(3) DEQ may require an electronics producer responsibility organization to provide, in its program plan, information to describe how the electronics producer responsibility organization will implement an electronics producer responsibility program that complies with ORS 459A.305 to 459A.355. Such information can include information on coordination if multiple program plans are approved, public awareness, program financing, environmentally sound management practices, fair financial compensation to collection sites, and measurement and achievement of goals. Examples of information that DEQ can require in a program plan include:

(a) A contact for the electronics producer responsibility organization who is located in Oregon;

(b) The names of any electronics producer responsibility organizations that the prospective electronics producer responsibility organization will share collection sites with;

(c) How the electronics producer responsibility organization will provide fair financial compensation to collection sites calculated to cover the costs of collecting, storing, managing and transporting covered electronic devices, such as by offering:

(A) Compensation rates necessary to ensure that a collection site can operate in an area where a collection site is required to meet convenient service under statute, with consideration for how the collection site can support the area being served and provide environmentally sound management practices; and

(B) Comparable compensation rates for collection sites that operate in similar geographic areas;

(d) How the electronics producer responsibility organization will measure public awareness across the state and in minority, lower-income, rural and other historically underserved communities, such as through statistically significant surveys;

(e) Milestones, timelines, and deliverables on implementation;

(f) How the electronics producer responsibility organization will ensure its electronics producer responsibility program consistently meets program goals;

(g) Information on how collection sites and other services will offer convenient and equitable service throughout Oregon, such as hours of operation or language and physical accessibility considerations;

(h) How the electronics producer responsibility organization will address any issues of noncompliance or nonperformance to ensure the electronics producer responsibility organization implements the electronics producer responsibility program according to the electronics producer responsibility organization's approved plan;

(i) The entity that the electronics producer responsibility organization would designate as a coordinating body if multiple plans are approved;

Statutory/Other Authority: ORS 468.020, 468.065 & 459A.345

Statutes/Other Implemented: ORS 459A.320

340-098-0240

Environmentally sound management practices

(1) Standards for environmentally sound management practices. An electronics producer responsibility organization must provide environmentally sound management practices that ensure:

(a) Continuous improvement in environmental outcomes, reduction of environmental impacts, and protection of health, safety, and data privacy in the management of covered electronic device materials;

(b) Each service provider or downstream vendor involved in the management of covered electronic device materials, from the time a covered electronic device is collected from a covered entity through to final disposition of the covered electronic device materials in that covered electronic device, manages covered electronic device materials in a way that:

(A) Minimizes environmental impacts;

(B) Protects health, safety, and data privacy;

(C) Complies with all laws, treaties, and regulations applicable to the service provider or downstream vendor handling the covered electronic device materials, including legal requirements related to:

(i) Waste and recycling processing, reuse, refurbishment, storage, handling, and shipping;

(ii) Air emissions and wastewater discharge, including storm water discharges;

(iii) Worker health and safety;

(iv) Wage and labor laws; and

(v) Transboundary movement of covered electronic device materials, including electronic equipment, components, materials, waste, or scrap for reuse, refurbishment, recycling, or disposal.

(D) Ensures covered electronic device materials will not be exported to countries that are not authorized by treaty or regulations to accept such covered electronic device materials; and

(E) Incorporates the solid waste management hierarchy, prioritizing the reuse and refurbishment of covered electronic devices above recycling, and recycling of covered electronic device materials above disposal of covered electronic device materials, consistent with all applicable laws.

(c) A covered electronic device is sent to processors, refurbishers, or for reuse within six months of a collector receiving the covered electronic device from a covered entity.

(2) Required environmentally sound management practices.

(a) Recordkeeping. An electronics producer responsibility organization must retain all records related to the implementation and administration of the electronics producer responsibility program, including records on whether environmentally sound management practices were provided, for not less than three years from the time the record was created and make the records available for inspection and audit by DEQ at DEQ offices upon request. An electronics producer responsibility organization must maintain records on the chain of custody for covered electronic device materials from collection to final disposition. Records must include:

(A) A point of contact for each service provider or downstream vendor;

(B) The types and amounts of covered electronic device materials that are recovered for reuse, refurbished, recycled, disposed of, or otherwise managed by each service provider or downstream vendor;

(C) The types of refurbishment, recycling, disposal, or other management methods used by each service provider or downstream vendor for covered electronic device materials;

(D) Documentation by each service provider or downstream vendor that the service provider or downstream vendor adhered to environmentally sound management practices and complied with all laws and regulations applicable to their management of covered electronic device materials; and

(E) Information on each service provider or downstream vendor's end markets for covered electronic device materials and end market contacts that the electronics producer responsibility organization uses to verify chain of custody.

(b) Requirements for service provider and downstream vendors. An electronics producer responsibility organization must require each service provider or downstream vendor to:

(A) Maintain all records related to covered electronic device materials for at least three years and ensure that such records are available to the electronics producer responsibility organization, including if the service provider or downstream vendor closes or leaves the electronics producer responsibility program;

(B) Cooperate with performance audits, records review, and inspections conducted by the electronics producer responsibility organization or DEQ;

(C) Maintain liability insurance and financial assurances

(D) Provide regular training and maintain policies on site management and operation requirements for the collection, sorting, or processing of covered electronic device materials; and

(E) If the service provider or downstream vendor is located in Oregon, comply with applicable state and local recordkeeping and reporting requirements, including reporting requirements for the Oregon Material Recovery Survey under OAR 340-090-0100 and any covered electronic devices reporting and tracking requirements for covered electronic devices.

(e) Monitoring. As part of monitoring and evaluating adherence by service provider and downstream vendors to environmentally sound management practices, an electronics producer responsibility organization must conduct:

(A) Reviews of changes in management processes in collectors and processors as changes arise;

(B) Quarterly reviews of collection reports from collectors and processing reports from processors;

(C) An annual audit of records related to the electronics producer responsibility program maintained by service providers and downstream vendors;

(D) Annual interviews with or surveys of collectors;

(E) Annual in-person site visits of:

(i) At least one-third of collectors in the electronics producer responsibility organization's collection network; and

(ii) All processors;

(F) Annual deployment of tracking devices to verify chain of custody and the fate of covered electronic device materials.

(f) An electronics producer responsibility organization must have processes to track and address fines, violations, or issues involving a service provider or downstream vendor. Processes must ensure the electronics producer responsibility organization will promptly notify DEQ of fines, violations, or issues related to environmentally sound management practices. Processes must also ensure the electronics producer responsibility organization can take appropriate action to ensure the environmentally sound management of covered electronic devices. Appropriate action can include terminating agreements with service providers or downstream vendors.

(g) Continuous improvement. An electronics producer responsibility organization must annually evaluate strategies to better achieve the standards for environmentally sound management practices in subsection (1). Strategies include incorporating new, more effective technologies; and improving existing practices and processes.

(3) DEQ administration.

(a) DEQ may approve variances from requirements of subsections (1) and (2) if the electronics producer responsibility organization demonstrates to DEQ's satisfaction that alternative environmentally sound management practices, such as the use of an independent, third-party certification program, may be substantially equivalent in ensuring protection of, and compliance with all laws applicable to, human health and safety, the environment, and data privacy.

(b) For the purposes of monitoring compliance with environmentally sound management practices, DEQ may use tracking devices to track the fate of covered electronic device materials.

Statutory/Other Authority: ORS 468.020, 468.065 & 459A.345

Statutes/Other Implemented: ORS 459A.320

340-098-0245

Fair Financial Compensation

(1) In offering compensation to collection sites, an electronics producer responsibility organization may review the costs of collecting, storing, managing and transporting covered electronic devices across a range of collection sites or may use reasonable estimates of costs of collecting, storing, managing and transporting covered electronic devices.

(2) An electronics producer responsibility organization or coordinating body must cooperate with, and provide any information requested by, DEQ on whether an electronics producer responsibility organization has provided fair financial compensation to collection sites. Such information includes compensation rates offered to a collection site or a prospective collection site.

(3) As part of administering ORS 459A.305 to 459A.355, DEQ may periodically hire a third party to study whether an electronics producer responsibility organization has provided fair financial compensation to collection sites.

(a) The study may include evaluations of:

(A) The real costs of collection sites in urban and in rural areas in collecting, storing, managing and transporting covered electronic devices, including labor, packing, storage, and security costs;

(B) Whether an electronics producer responsibility organization offered comparable compensation among collection sites in similar geographic areas;

(C) Trends in collection costs and collection site compensation in Oregon;

(D) Alternative forms of compensation to compensation on a price-per-pound basis, such as a baseline fee for participation as a collection site, with price-per-pound compensation for pounds collected above a minimum threshold; or a flat rate per pick-up; or

(E) How changes in compensation may impact convenience.

(b) An electronics producer responsibility organization or coordinating body must cooperate with, and provide any information requested by, DEQ or the third party to conduct the study.

Statutory/Other Authority: ORS 468.020, 468.065 & 459A.345

Statutes/Other Implemented: ORS 459A.320

340-098-0250 **Annual Reports**

(1) Unless directed otherwise by DEQ, an electronics producer responsibility organization must submit an annual report on the activities of its electronics producer responsibility program in a given calendar year by March 1 of the following year.

(2) DEQ may require an electronics producer responsibility organization to provide in its annual report information on whether the electronics producer responsibility organization implemented its electronics producer responsibility program in accordance with the electronics producer responsibility organization's approved program plan and with ORS 459A.305 to 459A.355. Such information includes information on coordination if multiple program plans are approved, public awareness, program financing, environmentally sound management practices, fair financial compensation to collection sites, and measurement and achievement of goals. Examples of information include:

(a) The reporting of the total weight of each type of covered electronic device, including peripherals, by product categories;

(b) Whether the electronics producer responsibility organization achieved program goals and possible reasons for why the electronics producer responsibility organization fell short of a goal and actions to remedy shortfalls or achieve the goal.

(3) An electronics producer responsibility organization may count pounds of covered electronic devices collected by a collection site through premium services towards the electronics producer responsibility organization's collection goals.

Statutory/Other Authority: ORS 468.020, 468.065 & 459A.345

Statutes/Other Implemented: ORS 459A.320

340-098-0255

Coordinating Body

(1) DEQ may require a prospective coordinating body to submit a letter of intent and information to help DEQ evaluate the prospective coordinating body's ability to serve as a coordinating body.

(2) If electronics producer responsibility organizations with approved plans are unable to designate a coordinating body in accordance with the timeline set by DEQ, DEQ may designate a coordinating body that DEQ determines will be in the best interest of the electronics producer responsibility programs. A prospective coordinating body must provide any information DEQ needs to make its decision.

(3) DEQ may direct a coordinating body to conduct any coordination between electronics producer responsibility organizations for the implementation of electronics producer responsibility programs pursuant to ORS 459A.305 to 459A.355, including coordination related to:

(a) Public education and outreach activities to advertise and promote, on a regular basis, recycling of covered electronic devices and collection opportunities statewide;

(b) Program goals, including collection goals and public awareness goals; or

(c) The conducting of surveys or other measurements of public awareness about the electronics producer responsibility programs and electronics recycling opportunities.

Statutory/Other Authority: ORS 468.020, 468.065 & 459A.345

Statutes/Other Implemented: ORS 459A.323

340-098-0260

Product Categories

Beginning in 2026, the product categories for purposes of sorting covered electronic devices at collection and calculating market share are:

(1) Category 1 includes desktop computers, portable computers, and small-scale servers;

(2) Category 2 includes monitors, printers, scanners, and fax machines;

(3) Category 3 includes televisions;

(4) Category 4 includes portable digital music players, digital video disc players, digital video disc recorders, videocassette recorders, video game consoles, digital converter boxes, cable receivers, satellite receivers, routers, and modems; and

(5) Category 5 includes peripherals.

Statutory/Other Authority: ORS 468.020, 468.065 & 459A.345

Statutes/Other Implemented: ORS 459A.305

340-098-0265

Market Share for Registered Manufacturers of Covered Electronic Devices

(1) Preliminary market share. Beginning in 2026 and each year thereafter, DEQ will make a preliminary determination of each manufacturer's market share for the program year and notify each manufacturer of that determination.

(2) Change requests. Each manufacturer will have 30 days to request changes to the preliminary market share and fee tier determination. A manufacturer requesting a change must provide DEQ the relevant information the manufacturer believes supports the change and any other information requested by DEQ to evaluate the requested change.

(3) Final market share. After the 30-day period described in section (2), DEQ will make a final determination of each manufacturer's market share and notify each manufacturer of that determination. In making the final market share determinations, DEQ will use the best available information as determined by DEQ, including any relevant information provided by manufacturers under section (2).

Statutory/Other Authority: ORS 468.020, 468.065 & 459A.345

Statutes/Other Implemented: ORS 459A.315, 459A.340

340-098-0270

Manufacturer Obligation Calculation

(1) A coordinating body, or an electronics producer responsibility organization if a coordinating body is not designated, must annually calculate each manufacturer's manufacturer obligation by:

(a) Multiplying the manufacturer's market share for each product category by the product category's percentage of the total weight of all covered electronic devices recycled during the previous year; and

(b) Adding the percentages calculated under subparagraph (a) of this section.

(2) In calculating a product category's percentage of the total weight of covered electronic devices recycled during the previous year for subparagraph 1(a) of this rule, an electronics producer responsibility organization or coordinating body shall use the total weight of covered electronic devices recycled in an electronics producer responsibility program during the previous year. If covered electronic devices were not eligible for recycling by an electronics producer responsibility

[program in a previous year, an electronics producer responsibility organization or coordinating body may use national data, consumer research, sampling, or any other data from the previous calendar year to apportion the costs of the program or programs among all manufacturers, and to reconcile such apportionment against manufacturer obligations in subsequent years.](#)

[Statutory/Other Authority: ORS 468.020, 468.065 & 459A.345](#)

[Statutes/Other Implemented: ORS 459A.323](#)

[340-098-0300](#)

Requirements for a Drug Take-Back Program Plan and Updated Plan

(1) DEQ may require a proposed drug take-back program plan and updated program plan submitted under ORS 459A.209 to include the Oregon Board of Pharmacy registration number issued for each covered manufacturer participating in the proposed drug take-back program, or a statement that the manufacturer is not required to register with the Oregon Board of Pharmacy.

(2) For purposes of ORS 459A.209(4), reasonably convenient and equitable access to all residents includes access for minority, lower-income, rural and other historically underserved communities.

(3) A proposed drug take-back program plan and updated program plan submitted under ORS 459A.209 must include a goal for fostering public awareness in minority, lower-income, rural and other historically underserved communities.

Statutory/Other Authority: HB 3273 (2019), ORS 468.020, ORS 468.065, ORS 459A.266 & HB3273 (2019)

Statutes/Other Implemented: HB 3273 (2019), ORS 459A.203, ORS 459A.209, ORS 459A.212, ORS 459A.215, ORS 459A.218, ORS 459A.239, ORS 459A.242 & HB3273 (2019)

History:

[DEQ 18-2020, adopt filed 09/21/2020, effective 09/21/2020](#)

[340-098-0350](#)

Services and Collection Events in Place of a Required Drop-Off Site

In determining whether to grant a waiver under ORS 459A.209(3), or to approve additional services and collection events in place of a drop-off site under ORS 459A.218(3), DEQ will consider whether the program operator has demonstrated:

(1) Good faith efforts to solicit and enter into agreements with potential authorized collectors in the affected county or population center for which a waiver or DEQ approval is sought, such as through outreach to identify, contact and engage with potential authorized collectors;

(2) Why a drop-off site cannot be established or maintained in the affected county or population center, including an explanation of any conditions for participation on which the program operator or any potential authorized collector could not agree;

(3) How the proposed services and, as applicable, collection events will provide reasonably convenient and equitable access to all residents in the affected county or population center, and engagement with minority, lower-income, rural and other historically underserved communities to help ensure this;

(4) Concurrence by the appropriate local governments in the affected population center or county with the proposed services and, as applicable, collection events, or an explanation of why the program operator could not obtain such concurrence despite good faith efforts;

(5) Commitment to solicit potential authorized collectors for the affected county or population center on at least an annual basis.

Statutory/Other Authority: ORS 468.020, ORS 468.065, ORS 459A.266 & HB 3273 (2019)

Statutes/Other Implemented: ORS 459A.203, ORS 459A.209, ORS 459A.212, ORS 459A.215, ORS 459A.218, ORS 459A.239, ORS 459A.242 & HB 3273 (2019)

History:

[DEQ 18-2020, adopt filed 09/21/2020, effective 09/21/2020](#)

340-098-0370

Delegation of Authority

DEQ, on behalf of the Environmental Quality Commission, may undertake any action ORS 459A.239 authorizes.

Statutory/Other Authority: ORS 468.020, ORS 468.065, ORS 459A.266 & HB 3273 (2019)

Statutes/Other Implemented: ORS 459A.203, ORS 459A.209, ORS 459A.212, ORS 459A.215, ORS 459A.218, ORS 459A.239, ORS 459A.242 & HB 3273 (2019)

History:

[DEQ 18-2020, adopt filed 09/21/2020, effective 09/21/2020](#)

340-098-0390

Fees

(1) Each program operator must pay the fees in this rule to DEQ.

(2) Plan review fee.

(a) The plan review fee is \$75,000.

(b) A program operator must pay the plan review fee for each plan it submits under ORS 459A.209(1).

(3) Annual fee.

(a) Amount of annual fee.

(A) For fiscal year beginning July 1, 2021, the annual fee is \$345,000.

(B) For fiscal year beginning July 1, 2022, the annual fee is \$210,000.

(C) For fiscal year beginning July 1, 2023, and for subsequent fiscal years, the annual fee is \$125,000.

(D) If multiple drug take-back programs operate in a fiscal year, each drug take-back program must pay an equal share of the total annual fee for that year.

(E) If the revenue collected from the plan review fee and annual fee exceeds DEQ's actual costs for the program in a given fiscal year, DEQ will reduce the annual fee by the excess amount in a subsequent year or years.

(F) DEQ may reduce the annual fee for a given fiscal year to ensure fee revenue approximately matches DEQ's projected costs for that year.

(b) Program operators must pay the annual fee according to the schedule below:

(A) For fiscal year beginning July 1, 2021, payment is due August 1, 2021.

(B) For fiscal year beginning July 1, 2022, and for subsequent fiscal years, DEQ will notify each program operator of the program's annual fee by October 1. Payment is due not later than 30 days after the date DEQ mails the notice.

(4) Hourly fee. The hourly fee is to cover any other work that DEQ determines is necessary on behalf of a drug take-back program.

(a) The hourly fee will not exceed \$250 per hour.

(b) DEQ will calculate the hourly fee to reasonably reflect DEQ's expenses for the work performed.

(c) DEQ will invoice each program operator quarterly for any hourly fee work associated with that operator's drug take-back program. The invoice will briefly describe the work performed and the cost for that work. Payment is due not later than 30 days after the date DEQ mails the invoice.

(5) Reporting. Each fiscal year DEQ will report its current and projected program expenditures and revenue.

Statutory/Other Authority: ORS 468.020, ORS 468.065, ORS 459A.266 & HB 3273 (2019)

Statutes/Other Implemented: ORS 459A.203, ORS 459A.209, ORS 459A.212, ORS 459A.215, ORS 459A.218, ORS 459A.239, ORS 459A.242 & HB 3273 (2019)

History:

[DEQ 18-2020, adopt filed 09/21/2020, effective 09/21/2020](#)

340-098-0400

Annual Fee

The stewardship organization will pay DEQ an annual fee as follows:

- (1) The annual fee due on July 1, 2024, is \$205,000.
- (2) The annual fee due on July 1, 2025, and in subsequent years, is \$200,000.
- (3) Beginning July 1, 2026, DEQ may reduce the fee in a given year if a lesser amount is adequate to cover program costs for that year.

Statutory/Other Authority: Section 9(3) of SB 1576 (2022)

Statutes/Other Implemented: SB 1576 (2022)

History:

[DEQ 8-2023, adopt filed 07/20/2023, effective 07/21/2023](#)

340-098-0420

Delegation of Authority to Determine Additional Reporting Requirements

Under Section 6(5)(a)(B) of SB 1576 (2022), DEQ may require a stewardship organization to meet additional reporting requirements that DEQ determines by order that may be appropriate to avoid future violations.

Statutory/Other Authority: Section 6(5)(a)(B) of SB 1576 (2022)

Statutes/Other Implemented: SB 1576 (2022)

History:

[DEQ 8-2023, adopt filed 07/20/2023, effective 07/21/2023](#)

340-098-0440

Stewardship Organization Submissions

(1) Goals

(a) For purposes of the mattress stewardship program, reuse has the meaning provided by ORS 459.005(24).

(b) In establishing performance goals pursuant to Section 4(1)(g) of SB 1576 (2022), a stewardship organization must:

(A) Establish annual goals; and

(B) Account for reuse when setting the recycling rate goal.

(c) When evaluating methods and processes used to achieve goals related to the recycling rate in an annual report, a stewardship organization must report on the number of mattresses directed for reuse.

(2) Collection by Site or Event: If a stewardship organization notifies DEQ of a change to collection sites or events, or requests alternative methods for providing convenient service, DEQ may require a stewardship organization to provide information including:

(a) The number or tonnage of program mattresses collected by a collection site or event; and

(b) The number or tonnage of program mattresses collected for recycling by a collection site or event.

(3) Studies and Additional Reports

(a) No later than 90 days before undertaking the study required in section 9(4)(a) of SB 1576 (2022) or activities that will inform the reports required in section 9(4)(b) of SB 1576 (2022), a stewardship organization must submit a description of proposed activities with scope, processes, outcomes and timelines for DEQ's review and comment.

(b) A stewardship organization must provide a response to DEQ's comments, that explains why comments were or were not incorporated. A stewardship organization must respond to comments within 30 days of when comments were sent, unless otherwise specified by DEQ.

Statutory/Other Authority: Section 9(2) of SB 1576 (2022) & ORS459.005

Statutes/Other Implemented: SB 1576 (2022)

History:

[DEQ 8-2023, adopt filed 07/20/2023, effective 07/21/2023](#)

[340-098-0460](#)

Notification of Changes

In addition to the notifications required by Section 7(3) of SB 1576, a stewardship organization will notify DEQ no less than once per month, of the following changes to an approved plan:

- (1) A change in the retailers that are registered with a stewardship organization; or
- (2) A change in the facilities managing discarded mattresses for reuse, as part of the mattress stewardship program.

Statutory/Other Authority: Section 7(3) of SB 1576 (2022) & ORS 459.005

Statutes/Other Implemented: SB 1576 (2022)

History:

[DEQ 8-2023, adopt filed 07/20/2023, effective 07/21/2023](#)

340-098-0480

Website Information

(1) A stewardship organization must make any changes to required information on the stewardship organization's website within three business days of the stewardship organization learning of the change. If the stewardship organization is unable to do so, the stewardship organization must notify DEQ in writing and include a timeframe by which the update will occur.

(2) A stewardship organization must request information from each collection site or event operator to provide on the stewardship organization's website, including:

- (a) The physical address of each collection site or event;
- (b) A phone number for each collection site or event;
- (c) The hours of operation for each collection site or event; and
- (d) Physical or language accessibility considerations at a collection site or event.

Statutory/Other Authority: Section 3(4) of SB 1576 (2022)

Statutes/Other Implemented: SB 1576 (2022)

History:

[DEQ 8-2023, adopt filed 07/20/2023, effective 07/21/2023](#)

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