



Fact sheet

Covered Products Exemption Requests 2025

Prepared for the Nov. 19, 2025, meeting of the Oregon Recycling Council

Background

The Plastic Pollution and Recycling Modernization Act includes a definition for “covered products,” or those products for which producers are obligated to pay fees to a Producer Responsibility Organization. The relevant definition appears in ORS 459A.863(6), with specific exemptions from the definition noted at ORS 459A.863(6)(b).

Pursuant to ORS 459A.863(6)(b)(R), the Oregon Environmental Quality Commission may, in consultation with the Recycling Council, exempt additional products from the definition of covered product in rule. To implement this piece of statute, DEQ opened a window in Oct 2025 for requests to exempt products from the definition of “covered product.” This was the second time that DEQ has invited requests to exempt products.

The two-part form instructed requesters to provide a rationale for their request and estimate the impacts of the exemption. A product’s completely bypassing the commingled system, entering the system neither as an item accepted for recycling nor as a contaminant, is an example of a strong rationale in DEQ’s opinion. As for impacts of exemption, DEQ considered the impacts of “free riders” (system costs being divided among a smaller group of producers, resulting in larger fees for producers and products still obligated) and the environmental impacts of additional classes of products not being subject to the Act.

Requests received

This year, DEQ received 29 product exemption requests from 17 requestors. DEQ evaluated each product-specific request individually. DEQ recommends granting the following three exemptions in rule:

- 1) Five specialty packaging formats used exclusively in industrial or manufacturing processes:
 - a. drums,
 - b. industrial totes,
 - c. industrial sacks,
 - d. gaylords,
 - e. Intermediate Bulk Containers

This would effectively add five packaging formats to the statutory exemption at ORS 459A.863(6)(b)(E), where two packaging formats are already exempt.

DEQ welcomes Council feedback about appropriate volume and/or material limitations to place on the exemptions for each of these five packaging formats. Volume and materials limitations could be used to focus the exemptions on packaging used exclusively in industrial or manufacturing processes.

- 2) Labels that, if not removed, interfere with use of the product. For example, labels on the windshields of vehicles for sale, apparel hang tags, etc.
- 3) Garbage bags, provided that the producer markets no garbage bags for sale in or into Oregon as serving a recycling purpose. Find some linked examples of products marketed as such below.
 - a. [Example 1](#)
 - b. [Example 2](#)
 - c. [Example 3](#)

In addition to the recommended requests, several more of the 29 requests were for materials already exempted or partially exempted under the law. A full summary of the requests received and DEQ's recommendations follows below in tabular format.

DEQ recommendations on product exemption requests

Business-to-business or commercial packaging

No.	Requester	Request
1	American Forest and Paper Association	Business-to-business cardboard
2	American Forest and Paper Association	Tertiary cardboard
3	Distilled Spirits Council of the United States, Inc.	Business-to-business packaging
4	Distilled Spirits Council of the United States, Inc.	Ingredient packaging used in business-to-business contexts.
5	Distilled Spirits Council of the United States, Inc.	Transport and distribution packaging
6	Food Northwest	Transport packaging
7	R.J. Schinner	Commercial cardboard
8	United States Bakery	Commercial cardboard

DEQ recommendation: No exemption recommended. Commercial and residential packaging are recycled in Oregon within a singular commingled recycling system. As such, commercial packaging is covered under the Act and producers should continue to cover the costs that management of their materials imposes on the PRO. Those management costs include transportation and processing.

In addition, Oregon still disposes of significant quantities of corrugated cardboard (>150,000 tons in 2023, more than plastic packaging and food serviceware by weight). There are more opportunities to improve recycling of cardboard.

The portion of commercial packaging recycled privately, outside of the commingled system, is eligible for an existing exemption under ORS 459A.869(13), and the claims process for this exemption has been proven effective in the first year of the program.

Several requesters pointed to the CAA fee of \$0 for tertiary cardboard in the 2025 and 2026 program years as evidence that an exemption would not have adverse free ridership impacts. However, the \$0 fee results from the "pooled exemption volume" for the material under ORS 459A.869(13) exceeding volumes reported by producers, which likely results from producer underreporting rather than no tertiary cardboard being recycled in the commingled system (we know this is not the case). Some underreporting at the outset of an EPR program is normal. This exemption request can be reconsidered in a few years when producer reporting is more robust.

Garbage bags

No.	Requester	Request
9	Berry Global, Inc.	Garbage bags
10	Poly-America, L.P.	Garbage bags

DEQ recommendation: DEQ is recommending an exemption for garbage bags, contingent upon a garbage bag producer claiming the exemption marketing no garbage bags in or into the state as fulfilling a recycling purpose.

Medical device packaging

No.	Requester	Request
11	Cardinal Health	Class I medical devices and non-sterile/non-510(k) cleared Class II medical devices, as defined in the Federal Food, Drug and Cosmetics Act
12	Johnson & Johnson Medtech	Class I medical devices and non-sterile/non-510(k) cleared Class II medical devices, as defined in the Federal Food, Drug and Cosmetics Act

DEQ recommendation: No exemption recommended. In rulemaking 2, DEQ already exempted the subsection of medical device packaging most likely to go to private recycling and evade the commingled system – see OAR 340-090-0840(2)(b). No new rationales were presented by the requestors to prompt reconsideration of the packaging that remains in scope.

Paint packaging

No.	Requester	Request
13	American Coatings Association (ACA)	Packaging of aerosol paint, including empty containers
14	American Coatings Association (ACA)	Packaging of architectural paint, including empty containers

DEQ recommendation: No exemption recommended at this time. Existing exemption ORS 459A.863(6)(b)(I) exempts architectural paint packaging collected through the paint stewardship program. PaintCare would like to see empty paint containers included in the existing exemption; however, that would require a change to the paint program so as to broaden its scope to encompass collection of aerosols and empty packaging.

Printing and writing paper

No.	Requester	Request
15	American Forest and Paper Association	Printing and writing paper
16	North Pacific Paper Company (NORPAC)	Printing and writing paper

DEQ recommendation: No exemption recommended. These products are commonly collected in the commingled recycling system and impose costs associated with transportation and processing.

Other

No.	Requester	Request	DEQ recommendation
17	Alliance for Automotive Innovation	Paper products and packaging used to comply with federal law	DEQ is recommending an exemption for labels that, if not removed, interfere with use of the product, e.g. labels on the windshields of vehicles for sale. Windshield labels were used by the requestor as an example of what they would like to see exempted. DEQ does not consider that a broader exemption for all packaging and paper used to comply with federal law is necessary – DEQ is not aware of any conflicts between federal laws and the Recycling Modernization Act that would prevent a producer from being able to comply with both sets of laws.

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18	Alliance for Automotive Innovation	Paper products and packaging used exclusively in research and development	No exemption recommended. It is possible to comply with both laws governing labeling and documentation of research and development and with the Recycling Modernization Act. Paper and packaging used in research and development commonly go into the commingled recycling system and obligated producers should cover the associated costs.
19	American Forest and Paper Association	Paper bags	No exemption recommended. Paper bag recycling imposes costs on the PRO that should be paid for by the obligated producers. The consumer-paid five-cent bag fee is not paying for the cost of recycling; it is reimbursing the retailers for their costs to buy bags. As such, DEQ does not consider the product covered under another stewardship program and considers that the product should remain in scope.
20	Coalition for Protein Packaging	Packaging in direct contact with raw protein.	No exemption recommended. Rationales developed for the California context are being applied to advocate for this exemption; however, the two laws are quite different from one another, with no redesign, source reduction, or material substitution mandates in Oregon. The material currently enters the commingled system as contamination, and obligated producers should cover those costs. It may also be possible to onramp some protein packaging onto the Uniform Statewide Collection List in the future.
21	Distilled Spirits Council of the United States, Inc.	Packaging material used to protect or store a durable product for a period of at least five years	No new exemption recommended. Such an exemption already exists in rule, at OAR 340-090-0840(2)(a).
22	Food Northwest	Industrial packaging	DEQ is recommending an exemption for five specialty packaging formats used exclusively in industrial or manufacturing processes: drums, industrial totes, industrial sacks, gaylords, and Intermediate Bulk Containers.
23	International Dairy Foods Association (IDFA)	Cheese wax	No exemption recommended. Like most packaging, cheese wax is inedible, applied to the product in manufacturing, plays a role of containing and protecting cheese, and has the potential of entering the commingled system as contamination.

No.	Requester	Request	DEQ recommendation
24	Lubricants Packaging Management Association (LPMA) powered by Interchange 360	All packaging containing lubricants, oil, and related automotive fluids containing 15 gallons or less of product	No exemption recommended. LPMA is proposing to establish a separate, voluntary collection program. Voluntary collection programs with no public oversight are a poor substitute for statewide EPR coupled with responsible recycling standards, especially for a material with known hazards and high potential for environmental harm. As part of the 2026 rulemaking, DEQ will consider the possibility of adding these materials to the PRO Recycling Acceptance List (which would only be possible if they are not exempt from the definition of “covered product”). If the automotive industry desires a separate EPR program for their products, they could pursue that with the Legislature.
25	Reusable Packaging Association	Reusable transport packaging	No exemption recommended. Some of this packaging is already covered by existing exemptions, and reusable packaging eventually reaches its end of life and must be disposed of, imposing costs on ratepayers and/or the PRO. While not addressed in the request, providers of leased Reusable Packaging Containers (RPCs) have separately raised concerns with DEQ about how obligation is assigned for their materials under the Act, and DEQ welcomes Council input regarding leased RPCs during the Nov 19 meeting.
26	R.J. Schinner	All packaging containing exempt products (e.g. packaging for napkins and paper towels)	No exemption recommended. The legislative and rulemaking processes were careful to set the bounds of the scope of each exemption. The logic behind these decisions would be undercut and much free ridership would be created by the requested exemption.
27	R.J. Schinner	Plastic film containing food serviceware	No exemption recommended. While film is useful for packaging of food serviceware, the Act does not include a removal or substitution requirement. Producers of the material need to pay their share of the costs associated with the material, including the cost to collect the material at PRO collection points, and the cost to remove the material from the commingled stream at commingled recycling processing facilities, where it is contamination.
28	United States Bakery	Food-contact plastic film	No exemption recommended. Plastic film does play an important role of keeping food fresh and safe, but producers of the material need to pay their share of the costs associated

No.	Requester	Request	DEQ recommendation
			with the material, including the cost to collect the material at PRO collection points, and the cost to remove the material from the commingled stream at commingled recycling processing facilities, where it is contamination.
29	Window and Door Manufacturers Association (WDMA)	Window, door and skylight packaging	No exemption recommended. These products are commonly retailed to both residential and business consumers and it is reasonably assumed that they contribute packaging into the commingled system; as such, DEQ does not see a good rationale for exemption.

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