



# DRAFT: Covered Products Exemption Request Process

*Draft prepared for the April 17, 2023, Oregon Recycling Council meeting*

The Plastic Pollution and Recycling Modernization Act includes a definition for “covered products”—those products for which producers are obligated to pay fees to a Producer Responsibility Organization. The relevant definition is located in ORS 459A.863, with specific exemptions from the definition noted in ORS 459A.863(6)(b). The Oregon Environmental Quality Commission may exempt additional products from the definition of “covered product” by rule as part of the upcoming rulemaking. A producer of a covered product not exempt under ORS 459A.863(6)(b) can apply for an exemption by submitting a request formatted according to the draft criteria listed below. DEQ, in consultation with the Recycling Council, will review and make recommendations to the Commission regarding whether or not additional exemptions in rule are warranted.

## Draft criteria for covered product exemption requests

### Part 1

1. **Does the proposed exemption align with an existing exemption category in ORS 459A.863(6)(b)?** (*“yes” responses should be accompanied by detailed justifications that address the italicized text in parentheses*)
  - Does the product bypass the commingled recycling system? (*describe how the product is disposed of or recycled without appearing in the commingled system, neither as a material to be recycled nor as a contaminant*)
  - Is the product covered in another Oregon EPR program? (*indicate which EPR program covers the product*), or
  - Is the product disposed of outside of Oregon? (*describe how the product leaves the state before disposal*)

*--if no, then--*

2. **Is there another strong rationale for exempting the product?**  
(*if so, describe the rationale*)

*If the answer to either question #1 or #2 is “yes,” move on to questions #3 and #4 and provide detailed justifications for the response to each.*

### Part 2

3. **Would exemption of the product result in considerable “free ridership?”**

*(i.e., is the relative volume of the product in the commingled recycling stream high enough that exemption would place undue burden on producers of other products?)*

**4. Would exclusion of the product from the program result in any other negative impacts?**

*(i.e., does the product have significant current environmental impacts, meaning that continuation of status quo producer behavior due to lack of engagement in the program would result in continued negative impacts?)*

**Evaluation approach**

DEQ will review all information received and share it with the Oregon Recycling Council for consultation.

Exemption requests will be assessed for:

1. Alignment with existing exemption criteria
2. Potential for “free ridership,” and
3. Potential for other impacts

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