



State of Oregon Department of Environmental Quality

# Notice of Proposed Rulemaking

March 29, 2023

Rulemaking for the Mattress Stewardship Act

This package contains the following documents:

- Notice of Rulemaking
- Draft Rules – Edits Highlighted
- Draft Rules – Edits Included (final clean version)

## Note for Readers:

This package contains multiple documents. If you want to read more than one document at a time, you can open multiple copies of this PDF by downloading the PDF and then opening it in Adobe. You can then either:

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- A second copy of the PDF will open in a separate tab in the same window

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# Introduction

DEQ invites public input on proposed permanent rule amendments to chapter 340 of the Oregon Administrative Rules.

## Request for Other Options

During the public comment period, DEQ asks for public comment on whether there are other options for achieving the rules' substantive goals while reducing the rules' negative economic impact on business.

## Overview

The Mattress Stewardship Act, or [SB 1576 \(2022\)](#) requires mattress manufacturers to participate in a program to provide proper collection and disposal of used mattresses statewide. Under SB 1576 (2022), the EQC may adopt rules as necessary to implement the Act. Proposed rules would establish an annual fee for DEQ's oversight and enforcement of the program; clarify certain annual reporting and notification requirements; specify information that must be included on a stewardship organization's website; and delegate authority to DEQ to require additional reporting by a stewardship organization when a stewardship organization has violated SB 1576 (2022).

DEQ convened a rulemaking advisory committee (committee) to give input on proposed rules, as well as the racial equity and fiscal impact statements. Two meetings were held, both of which were open to the public and included an opportunity for public input. A public hearing is scheduled for April 19, 2023, as part of the public comment period for this rulemaking.

## Procedural Summary

### More information

Information about this rulemaking is on the [Mattress Stewardship 2023 Rulemaking web page](#)

### Public Hearings

DEQ plans to hold one public hearing. Anyone can attend the hearing by Zoom, an online video conference platform, with toll-free telephone access for audio-only connections.

**Date:** Wednesday, April 19, 2023

**Start time:** 9 a.m.

**Register:** Please register prior to the meeting, using [this Zoom link](#).

After registering, you will receive a confirmation email with instructions on how to join the meeting. If you are unable to register online using the link above, please contact Rachel Harding for information on how to register and attend the hearing.

Email: [Rachel.Harding@deq.oregon.gov](mailto:Rachel.Harding@deq.oregon.gov)

Phone: 503-229-5198

## How to comment on this rulemaking proposal

DEQ seeks public comment on the proposed rules. Anyone can submit comments and questions about this rulemaking. DEQ will accept comments by email, postal mail or verbally at the public hearing.

- **Email:** Send comments by email to [mattress2023@deq.oregon.gov](mailto:mattress2023@deq.oregon.gov)
- **Postal mail:** Oregon DEQ, Attn: Rachel Harding/Materials Management, 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232-4100
- **At public hearing:** 9 a.m., Wednesday, April 19, 2023

## Comment deadline

DEQ will only consider comments on the proposed rules that DEQ receives by 4 p.m., on April 28, 2023.

## Note for public university students:

ORS 192.345(29) allows Oregon public university and OHSU students to protect their university email addresses from disclosure under Oregon's public records law. If you are an Oregon public university or OHSU student, notify DEQ that you wish to keep your email address confidential.

## Sign up for rulemaking notices

Get email or text updates about this rulemaking by either:

- Signing up through this link: [GovDelivery](#);
- Signing up on the rulemaking web site: [Mattress Stewardship Rulemaking web page](#).

## What will happen next?

DEQ will include a written response to comments in a staff report that DEQ will submit to the Environmental Quality Commission (EQC). DEQ may modify the rule proposal based on the comments.

Proposed rules only become effective if the EQC adopts them. DEQ's intended action is to present the proposed rules to the EQC as soon as possible after the earliest date on which the rule changes could take effect. DEQ intends to submit the proposed rule changes to the EQC in July 2023.

# Statement of need

## **What need would the proposed rule address?**

Proposed rules for the new mattress stewardship program would address the need to establish an annual fee as required by statute and clarify the requirements of the stewardship organization to support implementation of SB 1576 (2022).

## **How would the proposed rule address the need?**

The proposed rules address the need by providing a funding mechanism for DEQ's oversight and by clarifying reporting, notification and other requirements of the stewardship organization.

## **How will DEQ know the rule addressed the need?**

DEQ will know that the rules addressed the need if DEQ's oversight of the program is being funded adequately and if the mattress stewardship program is implemented successfully.

# Rules affected, authorities, supporting documents

## Lead division

Land Quality Division

## Program or activity

Materials Management Program, Product Stewardship Section

## Chapter 340 action

| Adopt        |              |              |              |              |
|--------------|--------------|--------------|--------------|--------------|
| 340-098-0400 | 340-098-0420 | 340-098-0440 | 340-098-0460 | 340-098-0480 |
| Amend        |              |              |              |              |
| 340-098-0000 |              |              |              |              |

| Statutory Authority - ORS |         |               |
|---------------------------|---------|---------------|
| 468.020                   | 459.005 | SB 1576(2022) |

| Statutes Implemented - ORS |  |  |  |  |
|----------------------------|--|--|--|--|
| SB 1576(2022)              |  |  |  |  |

## Legislation

SB 1576 (2022)

## Documents relied on for rulemaking

| Document title           | Document location   |
|--------------------------|---|
| Senate Bill 1576 (2022): | <a href="https://olis.oregonlegislature.gov/liz/2022R1/Measures/Overview/SB1576">https://olis.oregonlegislature.gov/liz/2022R1/Measures/Overview/SB1576</a> |

# Fee Analysis

These proposed rules would establish new fees, as required by SB 1576 (2022).

## Brief description of proposed fees

One of the proposed rules would establish an annual fee reasonably calculated to cover DEQ's expenses associated with the costs to administer, implement and enforce SB 1576 (2022), including startup costs. This fee would be assessed to any stewardship organization with a program plan approved by DEQ. The proposed rule would establish an annual fee of \$205,000 for the first year of the program (2024) and a fee of \$200,000 for the second year and onward. Beginning 2026, DEQ may reduce the fee in a given year if less is needed to cover program costs for that year.

## Reasons

Section 9(3) of SB 1576 (2022) requires DEQ to establish an annual fee that is reasonably calculated to cover DEQ's costs to administer, implement and enforce SB 1576 (2022).

## Fee proposal alternatives considered

DEQ requires an annual fee to cover DEQ's costs to oversee and administer a mattress stewardship program, including reviewing program plans and annual reports for approval, as well as providing program oversight and monitoring for compliance. Different options for structuring the annual fees were considered. After considering the committee's input, DEQ recommends setting a higher first annual fee to cover start-up costs.

Maintaining the status quo by not establishing fees would result in DEQ not implementing the requirements set by Section 9(3) of SB 1576 (2022) and not having adequate funds to oversee and administer SB 1576 (2022).

## Fee payer

The fee payer is any stewardship organization operating a mattress stewardship program in Oregon under a plan approved by DEQ.

## Affected party involvement in fee-setting process

DEQ convened a Rulemaking Advisory Committee (committee) that included appointees representing a variety of interests directly and indirectly affected by the proposed rules. The committee met on Dec. 8, 2022, and Feb. 3, 2023, to discuss ways to establish fees that would allow DEQ to cover program costs.



## Summary of impacts

A stewardship organization would determine the assessment fee on new mattresses sold in or into Oregon based on the overall operating cost of the program. This operating cost would include DEQ's annual fee. In other applicable states with a mattress program, the state agency's annual fee is a small percentage of the overall program cost.

Two other proposed rules address what information a stewardship organization must provide to DEQ in terms of information in annual reports and notification of program changes. These two items may have a minor administrative cost to the stewardship organization but would likely not have a big impact on the overall program budget.

Finally, there is also a proposed rule to allow DEQ to act on the EQC's behalf in issuing determinations by order under Section 6(5)(a)(B) of SB 1576 (2022). This likely would not have an impact outside DEQ.

## Fee payer agreement with fee proposal

Parties that may be potentially affected by this proposed annual fee were included in the committee's discussions, but no agreement is required for the EQC to adopt these fees.

## Links to supporting documents for proposed fees

Senate Bill 1576 (2022):

<https://olis.oregonlegislature.gov/liz/2022R1/Measures/Overview/SB1576>

## How long will the current fee sustain the program?

There are no current fees established for this program. The proposed fees in this rulemaking are intended to cover DEQ's costs for implementing the Mattress Stewardship Program.

| Proposed Fees               |           |
|-----------------------------|-----------|
| Year one: 2024              | \$205,000 |
| Year two (2025) and onward: | \$200,000 |

## Fee schedule

As required in SB 1576 (2022), each year by April 1, DEQ will notify a stewardship organization of the annual fee for the upcoming calendar year. The initial plan from a stewardship organization is due Oct. 1, 2023. The annual fee is due from a stewardship organization on July 1 of each year, starting in 2024.

# Statement of fiscal and economic impact

## Fiscal and Economic Impact

Overall, the rules would have an impact on any stewardship organization choosing to submit and operate an approved program plan. The proposed rules would have an impact through fees charged to a stewardship organization and information that a stewardship organization must provide to DEQ for notice and reporting purposes. Based on the fees of agencies in other states with mattress programs, the amount of DEQ's fees and administrative costs would likely be small relative to a stewardship organization's overall program cost, which ultimately informs the assessment on each mattress sold in Oregon. The indirect impact of the rules on mattress purchasers, via the assessment, would be spread out among the mattress purchasers, which may include state agencies, local governments, the public, and large and small businesses.

## Statement of Cost of Compliance

### State agencies

DEQ would experience a direct fiscal impact associated with administering the proposed rules. These costs would be covered by new fees in the proposed rules. Separately, there may be an indirect impact to state agencies that purchase mattresses, although such impact would likely be spread among all mattress purchasers in Oregon.

### Local governments

The proposed rules would likely not have a significant impact on local governments, as the rules mainly apply to a stewardship organization, which must be a 501(c)(3) nonprofit organization. By implementing this new law, local governments should see an overall benefit to their programs by way of decreased illegal dumping of mattresses, both in local communities and on public lands. Additionally, there may be an indirect impact to local governments that purchase mattresses, as they would be subject to the assessment.

### Non-Profit Organizations

A non-profit organization choosing to participate as a stewardship organization for the mattress program would likely be impacted by the proposed rules, including the annual fee. Non-profit organizations may also be impacted in a positive way, if they are the recipient of mattresses for reuse or recycling through this new program. Non-profits were a part of the rulemaking committee and represented these view points.

### Public

There may be an indirect impact to members of the public who purchase mattresses. The public may experience positive impacts associated with the proposed rules. This program may lead to the reduction in the number of mattresses that are illegally dumped on public land. Maintaining and improving the health of forests and public land can have a positive impact to the health of the surrounding communities. Improving water, air and land quality

can reduce negative health impacts associated with pollution which lead to reduced health care costs and an improved quality of life. Adoption of these rules will ensure DEQ is able to administer and oversee an effective program for the public.

### **Large businesses - businesses with more than 50 employees**

Large businesses likely would not see significant fiscal impact based on these proposed rules. SB 1576 (2022) has already imposed costs outside of the proposed rules by requiring manufacturers, retailers and renovators to register under an approved plan, which may have an impact on a large business's administrative costs. A large business might be impacted if they purchase mattresses.

### **Small businesses – businesses with 50 or fewer employees**

Small businesses participating in the program will likely experience similar impacts as large businesses from these proposed rules.

### **ORS 183.336 - Cost of Compliance for Small Businesses**

#### **a. Estimated number of small businesses and types of businesses and industries with small businesses subject to proposed rule.**

The new rules may have an indirect effect on small businesses that are manufacturers, retailers, renovators or purchasers of mattresses. DEQ does not have data pertaining to the exact number of these small businesses that operate as mattress manufacturers, retailers or renovators in the state; however, the overall costs of the mattress program would be dispersed among mattress purchasers through an assessment fee. The rules are mainly in place for the stewardship organization, but the stewardship organization may list activities for a business to comply with, if they are a participant in the mattress program. (For example, a mattress retailer collecting an assessment on a mattress sold.)

#### **b. Projected reporting, recordkeeping and other administrative activities, including costs of professional services, required for small businesses to comply with the proposed rule.**

These new rules likely would not have a major impact on small businesses as it relates to their needing professional services, reporting, record keeping and other administrative duties. The rules are mainly in place for the stewardship organization, but the stewardship organization may list activities for a business to comply with, if they are a participant in the mattress program.

#### **c. Projected equipment, supplies, labor and increased administration required for small businesses to comply with the proposed rule.**

These costs would be similar to those noted above.

**d. Describe how DEQ involved small businesses in developing this proposed rule.**

DEQ included a small mattress recycling business for their insight on the recycling process. Due to the limited scope of this rulemaking, DEQ did not include other small businesses. However, SB 1576 (2022) requires DEQ to appoint a separate advisory committee to advise DEQ on any program plan submitted by a stewardship organization for DEQ approval. Plans submitted will include a proposed assessment amount and have the potential to affect large and small businesses including large purchasers of mattresses and mattress retailers. DEQ plans to appoint members from these sectors to that advisory committee to gain their input, before approving or rejecting any plan.

**Documents relied on for fiscal and economic impact**

| Document title                       | Document location  |
|--------------------------------------|--|
| 2022 California Approved Budget      | CalRecycle Mattress Budget Webpage:<br><a href="https://calrecycle.ca.gov/Mattresses/Budgets/">https://calrecycle.ca.gov/Mattresses/Budgets/</a> |
| 2022 California Amended Program Plan | CalRecycle Mattress Plans Webpage:<br><a href="https://calrecycle.ca.gov/Mattresses/Plans/">https://calrecycle.ca.gov/Mattresses/Plans/</a>      |

**Advisory committee fiscal review**

DEQ appointed an advisory committee.

As ORS 183.33 requires, DEQ asked for the committee’s recommendations on:

- Whether the proposed rules would have a fiscal impact,
- The extent of the impact, and
- Whether the proposed rules would have a significant adverse impact on small businesses; if so, then how DEQ can comply with ORS 183.540 reduce that impact.

The committee reviewed the draft fiscal and economic impact statement, and its findings are stated in the approved meeting summary dated Feb. 3, 2023.

The committee generally agreed with DEQ’s assessment of the fiscal impact of these proposed rules. The committee determined the proposed rules would not have a significant adverse impact on small businesses in Oregon.

**Housing cost**

As ORS 183.534 requires, DEQ evaluated whether the proposed rules would have an effect on the development cost of a 6,000-square-foot parcel and construction of a 1,200-square-foot detached, single-family dwelling on that parcel.

DEQ determined the proposed rules would have no effect on the development costs because the proposed rules are limited to the implementation of the legislatively approved mattress stewardship program. These proposed rules are primarily intended to give clarification to the stewardship organization, specifically on the required reporting and the annual fee.

# Racial Equity

ORS 183.335(2)(a)(F) requires state agencies to provide a statement identifying how adoption of this rule will affect racial equity in this state.

The adoption of these rules, including an annual fee, would provide DEQ with the tools needed to administer and oversee the mattress stewardship program. These rules will assist DEQ in carrying out its required responsibilities, including reviewing a stewardship organization's plan and ensuring the stewardship organization implements a program equitably for all residents in Oregon. Both equity and environmental justice will be considered when reviewing program plans from a potential stewardship organization.

The mattress stewardship program supports environmentally sound management of mattresses at their end of life and is intended to help reduce illegal dumping of mattresses, which negatively impacts communities. Convenient and accessible opportunities for collection of discarded mattresses will be provided for all residents throughout the state, at no cost, at point of disposal. DEQ has not identified any specific actions or outcomes from these proposed rules that would substantially benefit or burden any person or community based on the racial demographics of that person or community.

# Environmental Justice Considerations

ORS 182.545 requires natural resource agencies to consider the effects of their actions on environmental justice issues.

DEQ defines environmental justice as the fair treatment and meaningful involvement of all people regardless of race, color, national origin, culture, education or income with respect to the development, implementation and enforcement of environmental laws, regulations and policies.

DEQ considered these effects by holding public meetings in a virtual setting so that members of the public from across the state could attend and give input. DEQ appointed several members to the rulemaking advisory committee representing lived experience from the community at-large and community-based organizations, as well as recycling and reuse organizations.

In addition to DEQ's engagement efforts being responsive to communities with environmental justice concerns, the design of the mattress stewardship program supports more equitable outcomes for communities more likely to experience environmental burdens. By requiring better collection and reuse, or recycling, of mattress components, DEQ expects that illegal dumping of mattresses will decrease. This improves the overall environmental impacts of mattresses that, when dumped illegally, can contribute to dangerous accumulation of materials if not collected by waste haulers or other entities.

By establishing rules for the responsible management of mattresses, DEQ can help ensure that the mattress stewardship program would contribute to an overall improvement in quality of life and well-being of people in Oregon and their ability to engage with a healthy and clean environment, reducing environmental inequity.

# Federal relationship

ORS 183.332, 468A.327 and OAR 340-011-0029 require DEQ to attempt to adopt rules that correspond with existing equivalent federal laws and rules unless there are reasons not to do so.

The proposed rules do not have any corresponding equivalent federal requirements.

## Land use

### Land-use considerations

In adopting new or amended rules, ORS 197.180 and OAR 340-018-0070 require DEQ to determine whether the proposed rules significantly affect land use. If so, DEQ must explain how the proposed rules comply with statewide land-use planning goals and local acknowledged comprehensive plans.

Under OAR 660-030-0005 and OAR 340 Division 18, DEQ considers that rules affect land use if:

- The statewide land use planning goals specifically refer to the rule or program, or
- The rule or program is reasonably expected to have significant effects on:
  - Resources, objects, or areas identified in the statewide planning goals, or
  - Present or future land uses identified in acknowledge comprehensive plans

DEQ determined whether the proposed rules involve programs or actions that affect land use by reviewing its Statewide Agency Coordination plan. The plan describes the programs that DEQ determined significantly affect land use. DEQ considers that its programs specifically relate to the following statewide goals:

| <b>Goal</b> | <b>Title</b>  |
|-------------|---|
| 5           | Natural Resources, Scenic and Historic Areas, and Open Spaces |
| 6           | Air, Water and Land Resources Quality                         |
| 11          | Public Facilities and Services                                |
| 16          | Estuarine Resources   |
| 19          | Ocean Resources   |

Statewide goals also specifically reference the following DEQ programs:

- Nonpoint source discharge water quality program – Goal 16
- Water quality and sewage disposal systems – Goal 16
- Water quality permits and oil spill regulations – Goal 19



## **Determination**

DEQ determined that these proposed rules do not affect land use under OAR 340-018-0030 or DEQ's State Agency Coordination Program.

# EQC Prior Involvement

DEQ's Land Quality Division shared information about the Mattress Stewardship rulemaking with the EQC through an informational item (Director's Update) on the March 16, 2023 EQC agenda. The following information was provided:

To the Environmental Quality Commission:

The Mattress Stewardship Act, or SB 1576 (2022), establishes a statewide system for the financing, collection and environmentally sound management of discarded mattresses. This new program will include collection sites and events located conveniently around the state, funded by a flat fee on each mattress sold. A stewardship organization will operate the program and must submit a plan to DEQ for approval by Oct. 1, 2023; this plan will provide details regarding how the program will work, as required in statute. After approval of a plan, entities who wish to sell mattresses in Oregon must be registered with the stewardship organization. DEQ will provide administrative oversight to ensure the stewardship organization is in compliance with statutory requirements.

Rulemaking for the Mattress Stewardship Act of 2022 began in December 2022, and the second of two Advisory Committee meetings concluded on Feb. 3, 2023. During these two meetings draft rules, the fiscal impact statement and the racial equity statement were shared with RAC members for their input. Draft rules are being finalized at this time, in preparation for the public comment period in April. The public hearing will be held on Wednesday, April 19 at 9:00 a.m., with more details to follow in the coming weeks. It is expected that draft rules will be presented to the EQC at the July meeting. If you have any questions in the meantime, please feel free to reach out to Rachel Harding, Product Stewardship Specialist, at 503-929-7125 or [Rachel.Harding@deq.oregon.gov](mailto:Rachel.Harding@deq.oregon.gov). Updates are also available by signing up for [GovDelivery Alerts](#) or by visiting the [Mattress Stewardship Program page](#).

# Advisory Committee

## Background

DEQ convened the Mattress Stewardship rulemaking advisory committee. The committee met two times, and included representatives from the public, private and non-profit sectors. The rulemaking web page is located at: [Mattress Stewardship 2023 Rulemaking](#)

The committee members were:

| Rulemaking Name Advisory Committee |   |
|------------------------------------|---|
| Name                               | Representing  |
| Marie Clarke                       | International Sleep Products Association and Mattress Recycling Council |
| Michelle Colletti                  | Community Member  |
| Sabrina Gogol                      | Metro   |
| Anna Kurnizki                      | Community Warehouse   |
| Angie Marzano                      | Lane County Public Works  |
| Terry McDonald                     | St. Vincent de Paul of Lane County                                      |
| Robert Stewart                     | Coos County Solid Waste   |
| Aimee Thompson                     | Thompson's Sanitary Service   |

## Meeting notifications

To notify people about the advisory committee's activities, DEQ:

- Sent GovDelivery bulletins, a free e-mail subscription service, to the following lists:
  - Rulemaking
  - 2050 Vision for Materials Management
  - DEQ Public Notices
  - Mattress Recycling
- Added advisory committee announcements to DEQ's calendar of public meetings at [DEQ Calendar](#).

## Committee discussions

In addition to the recommendations described under the Statement of Fiscal and Economic Impact section above, the committee met to give input on proposed new rules for the Mattress Stewardship Program. Discussions and input addressed mattress recycling and reuse, program convenience and accessibility, and ensuring necessary funding for oversight and enforcement of the program, among other topics related to program implementation.

# Public Engagement

## Public notice

DEQ provided notice of the proposed rulemaking and rulemaking hearing by:

- On March 29, Filing notice with the Oregon Secretary of State for publication in the April 2023 Oregon Bulletin;
- Posting the Notice, Invitation to Comment and Draft Rules on the web page for this rulemaking, located at: [Mattress Stewardship 2023](#);
- Emailing approximately 23,880 interested parties on the following DEQ lists through GovDelivery:
  - Rulemaking
  - 2050 Vision for Materials Management
  - DEQ Public Notices
  - Mattress Recycling
- Emailing the following key legislators required under [ORS 183.335](#):
  - Senator James Manning Jr.
  - Senator Michael Dembrow
  - Senator Janeen Sollman, Chair, Senate Committee on Energy and Environment
  - Representative Pam Marsh, Chair, House Committee on Climate, Energy and Environment
- Emailing advisory committee members
- Posting on the DEQ event calendar: [DEQ Calendar](#)

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- **Email:** Send comments by email to [mattress2023@deq.oregon.gov](mailto:mattress2023@deq.oregon.gov)
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**Date:** Wednesday, April 19, 2023

**Start time:** 9 a.m.

**Register:** Please register prior to the meeting, using [this Zoom link](#).

After registering, you will receive a confirmation email with instructions on how to join the meeting. If you are unable to register online using the link above, please contact Rachel Harding for information on how to register and attend the hearing.

Email: [Rachel.Harding@deq.oregon.gov](mailto:Rachel.Harding@deq.oregon.gov)

Phone: 503-229-5198

# Accessibility Information

DEQ can provide documents in an alternate format or in a language other than English upon request. Call DEQ at 800-452-4011 or email [deqinfo@deq.state.or.us](mailto:deqinfo@deq.state.or.us).

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# Draft Rules – Edits Highlighted

## Key to Identifying Changed Text:

~~Deleted Text~~

New/inserted text

~~Text deleted from one location~~ - and moved to another location

### Division 098

#### ~~SOLID WASTE: ELECTRONICS RECYCLING AND DRUG TAKE-BACK~~ MATERIALS MANAGEMENT: PRODUCT STEWARDSHIP PROGRAMS

Summary of rule changes: New rules are being proposed for the Mattress Stewardship Act of 2022.

#### **340-098-0000**

##### **Applicability**

(1) OAR 340-098-0000 to OAR 340-098-0200 apply to manufacturers of covered electronic devices sold or offered for sale in the State of Oregon for calendar years 2012 and beyond.

(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 340-098-0480 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 18-2020, amend filed 09/21/2020, effective 09/21/2020](#)

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

**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)

**340-098-0420**  
**Delegation of Authority to Determine Additional Reporting Requirements**

Pursuant to Section 6(5)(a)(B) of SB 1576 (2022), DEQ may require a stewardship organization to meet any additional reporting requirements that DEQ determines by order 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)

**340-098-0440**  
**Annual Reporting**

- (1) A stewardship organization must include in each annual report the tonnage and number of mattresses from each collection site directed to reuse.
- (2) If requested by DEQ, a stewardship organization will include in an annual report, information the stewardship organization collects to determine how each collection site or event is performing and its effectiveness, including:
  - (a) The number and tonnage of program mattresses collected by a collection site or event; and
  - (b) The number and tonnage of program mattresses collected for recycling by a collection site or event.



**Statutory/Other Authority:** Section 9(2) of SB 1576 (2022), ORS459.005  
**Statutes/Other Implemented:** SB 1576 (2022)

### **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)

### **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)

# Draft Rules – Edits Included

## Division 098

### MATERIALS MANAGEMENT: PRODUCT STEWARDSHIP PROGRAMS

Summary of rule changes: New rules are being proposed for the Mattress Stewardship Act of 2022.

#### **340-098-0000**

##### **Applicability**

- (1) OAR 340-098-0000 to OAR 340-098-0200 apply to manufacturers of covered electronic devices sold or offered for sale in the State of Oregon for calendar years 2012 and beyond.
- (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 340-098-0480 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 18-2020, amend filed 09/21/2020, effective 09/21/2020

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

#### **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)

#### **340-098-0420**

##### **Delegation of Authority to Determine Additional Reporting Requirements**

Pursuant to Section 6(5)(a)(B) of SB 1576 (2022), DEQ may require a stewardship organization to meet any additional reporting requirements that DEQ determines by order 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)

### **340-098-0440**

#### **Annual Reporting**

(1) A stewardship organization must include in each annual report the tonnage and number of mattresses from each collection site directed to reuse.

(2) If requested by DEQ, a stewardship organization will include in an annual report, information the stewardship organization collects to determine how each collection site or event is performing and its effectiveness, including:

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

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

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

**Statutes/Other Implemented:** SB 1576 (2022)

### **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)

### **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)