

WEBINAR SERIES: PREPARING PRODUCERS FOR OREGON PACKAGING EPR

Consumer Goods and B2B Packaging - August 6, 2024

Q&A Extended Response



#	Question	Answer
1	How do you know if you are a "large producer"?	A producer is a "large producer" if, according to the supply data that it reports to the PRO, it is among the top 25 producers in terms of the weight of covered product it is obligated for that is sold or distributed in or into Oregon. DEQ will announce the first list of large producers in September 2025, compiled on the basis of 2024 supply data, and the first set of large producer disclosures will be due at the end of 2026.
2	How is a large producer defined?	See the response to question #1 and also see ORS 459A.863(8) and OAR 340-090-0700(1)(b) for the definition of "large producer" and the market share methodology used to determine the list of large producers, respectively.
3	What is the difference between the Class Violations? Can you give examples of the fines/fees?	Civil violation fee amounts are a function of the class and magnitude of violations. Classification of Recycling Modernization Act violations was included in revisions to the Division 12 Oregon Administrative Rules that were adopted on November 22, 2024 -- see OAR 340-012-0140. Base penalties range from \$1000 per day for each Class III violation with a minor magnitude, to \$12,000 per day for each class I violation with a major magnitude.
4	When do we expect a PRO to be officially selected for Oregon?	Circular Action Alliance (CAA) was the only Producer Responsibility Organization (PRO) to submit a program plan on March 31, 2024. Once CAA's program plan is approved by DEQ as the outcome of a three-draft revision process, CAA will formally be approved as the PRO in Oregon. This is expected in early 2025.
5	What about primary packaging used in B2B settings?	B2B packaging is within the scope of Oregon's law, which does not contain any blanket exemption for commercial waste. Commercial waste is within scope of the Act because there is a single commingled recycling system in Oregon for both commercial and household waste--as such, the management of commercial waste will impose program costs upon the PRO, and producers of this waste must pay their share. In summary, unless the packaging qualifies for a specific statutory or rule exemption, it is in scope and producers need to register with the PRO and pay fees for it.
6	Are raw material suppliers who sell ingredients to consumer product manufacturers out of scope aka exempt from reporting?	The response to question 5 applies here as well; B2B packaging is within the scope of Oregon's law. If the ingredients are being sold by the supplier to a manufacturer located in Oregon by remote distribution, the producer definition at ORS 459A.866(1)(b) applies, with the manufacturer considered the consumer of the ingredients, and whoever packaged and shipped the ingredients (potentially the supplier) responsible for the shipping packaging.
7	Are grocery stores considered producers?	One example where a grocery store may be an obligated producer, depicted in scenario 2 of the webinar #3 presentation, regards retailer private label or "white label" products. The grocery store owns the brand under which the product is sold, but the manufacturer is often a contract manufacturer, a separate entity. Under OAR 340-090-0860(1), if the grocery store is directing the manufacturing of such products by contract and specifically, if it's setting the specifications for the packaging of the products, the grocery store would be obligated for those products. Another example where a grocery store may be an obligated producer was presented as scenario 1 in the webinar #4 presentation -- in that scenario, a consumer purchases groceries through a grocery store's e-commerce platform, and then the grocery store packages and delivers the items to the consumer's home. Under such a scenario, pursuant to ORS 459A.866(1)(b), the grocery store is responsible for the shipping packaging that the groceries are put into.
8	Will there be a penalty for not pre-registering by 3/31/25?	The revised Division 12 rules adopted by the Environmental Quality Commission on November 22, 2024, do not include a specific classification of the violation for failure of a producer to pre-register with a PRO by March 31, 2025. As such, the violation would fall into Class II, pursuant to proposed OAR 340-012-0098(2)(f), and commensurate penalties could be assessed.
9	We have heard there are roughly 1300 producers registered with CAA. How many producers do you estimate are obligated in Oregon to participate?	The prospective PRO, CAA, is responsible for registration of obligated producers. CAA is currently conducting outreach to trade associations (both national and state), chambers of commerce, and business coalitions to ensure producers are aware of their obligations and inform estimates of the number of producers obligated in Oregon.
10	Is there a current estimate of anticipated fees in 2025 so we can budget for next year?	CAA's program plan contains a preliminary fee schedule that is being rendered more accurate with each successive draft submission. Producers may review and inform their internal budgeting processes using the preliminary fee schedule, but should be aware that the fee amounts will evolve further leading up to the program launch of July 1, 2025, particularly to account for the supply data received from producers for the March 31, 2025, pre-registration deadline.
11	Does Commercial include industrial usually referred to as I&I (example Canada)?	The response to question #5 applies to this question as well -- packaging of products that are used by businesses, encompassing industrial, commercial, and B2B waste, is all included in the scope of the law unless the specific packaging in question qualifies for a specific exemption in statute or rule -- see specific exemptions at ORS 459A.863(6)(b)(A)-(Q) and at OAR 340-090-0840(2). Oregon's Act includes industrial, commercial, and B2B packaging because Oregon has a single commingled recycling system that processes all of these waste streams, which therefore all impose program costs upon the PRO.
12	If you ship business to business outside of the state of Oregon, then that retail business ships the product into Oregon from California or Utah, for instance, and you do not know where they ship the product to, who is liable?	The commenter does not fully elucidate the scenario, but DEQ infers that the commenter means to suggest that a product in packaging is going from a branded manufacturer to an out-of-state distributor and then onward to an Oregon-based retailer that sells the product at physical retail to a consumer. Such a scenario is depicted in scenario #8 of webinar 3. The branded manufacturer is responsible for all primary and secondary packaging associated with the product, as well as any tertiary packaging that the distributor does not remove and that continues onward into Oregon. If the distributor applies new pallet wrap to the product, that pallet wrap is exempt pursuant to ORS 459A.863(6)(b)(H). Regarding the lack of visibility of the obligated producer with respect to how much product went to Oregon, the obligated producer will need to work with the distributor to obtain the data, or use a best-practice methodology to estimate it.

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13	What are the qualifications to be considered a small producer? Do small producers need to report?	<p>Small producers are exempt from the requirement to join a PRO, report tonnages and pay fees; as such, they need not report.</p> <p>As for how to qualify as a small producer, see the small producer definition at ORS 459A.863(32)(a)-(g). This definition includes de minimis thresholds for revenues and covered product tonnages, as well as five other ways of qualifying as a small producer. A producer need meet only one of the seven criteria to qualify.</p> <p>The de minimis threshold for revenue is set at \$5 million in global annual revenues. The de minimis for covered product tonnage is set at 1 metric ton.</p> <p>Organizational status as a public body or a nonprofit are two of the other qualifying criteria. And beverage producers with less than 5 metric tons of covered products also qualify (primary beverage packaging covered by the bottle bill is exempt from the Act, but any beverage packaging not covered by the bottle bill remains in scope of the Act, including secondary and tertiary packaging of Bottle Bill containers).</p> <p>The other two types of producers that qualify as exempt producers are restaurants and single retail sales establishments that have no online sales and are not operated as a franchise.</p>
14	Can you clarify the requirements of an impact evaluation for large producers?	<p>The standards and methods for impact evaluation and disclosure, as well as scope and applicability rules pertaining to the evaluations, are laid out at OAR 340-090-0900-0940. According to these rules, large producers need to rank their products by SKU in terms of Oregon sales volumes (number of units sold). Then they must take the top 1% and perform impact evaluation and disclosure for those SKUs according to the standards and methods laid out at OAR 340-090-0920-0940. Two years later, if they remain a large producer, they will need to again assemble the ranking of SKUs, and evaluate and disclose for the next 1% of SKUs so as to not be repeating disclosure of the same products.</p> <p>With respect to the overall goal of these provisions, the department has prior research indicating that producer evaluation and disclosure of impacts correlates to producer action to reduce impacts (https://www.oregon.gov/deq/FilterDocs/QuantisPEFResearchReport.pdf). The idea is to catalyze more evaluation and disclosure for the most impactful products (with sales serving as a proxy), in order to catalyze more impact reduction.</p>
15	What is the reporting period when due in March of 2025? Is it for fiscal year 2024 or can you choose the reporting period?	<p>Pursuant to OAR 340-090-0870, producers are required to report their Calendar Year 2024 data to CAA by March 31, 2025. Producers may apply an adjustment to 2023 data to estimate their 2024 data. CAA is actively providing guidance to producers on how to prepare this reporting.</p>
16	Can we expect more clarity on the definition of "ready to eat"?	<p>Rules that clarify the definition of "food serviceware" can be located at OAR 340-090-0840(1), and include the following definition of "ready to eat" at subsection (1)(e): "ready to eat food is prepared or cooked in advance, with no further cooking or preparation required before consumption."</p>
17	If a CPG company sells to a retailer (such as Walmart and Target) and the product is shipped in a box that gets disposed of before the consumer touches the product, who is obligated in the Oregon program?	<p>Generally, tertiary transport packaging is included in the scope of covered materials. Scenario 1 in webinar 3 addressed the very scenario that the commenter is asking about. The CPG company, as the brand-holding manufacturer (tier one in the three-tiered producer definition for products sold at physical retail at ORS 459A.866(1)(a)), is responsible for the primary, secondary, and tertiary transport packaging besides packaging that qualifies for specific exemptions.</p> <p>Regarding packaging that may qualify for specific exemptions, rigid pallets are exempt pursuant to ORS 459A.863(6)(b)(D), and many retailers compact cardboard in their back-of-shop and then ship it directly to an end market. This is recycling outside of the Opportunity To Recycle framework and that material potentially qualifies for the exemption at ORS 459A.869(13), if it meets all three criteria. DEQ will communicate the process for claiming the 869(13) exemption in January 2025.</p>
18	Are cannabis packaging items exempt as medical packaging?	<p>The minority of cannabis products that are prescribed in Oregon are regulated by the Oregon Board of Pharmacy under ORS 689. They are considered a "prescription drug" and as such, pursuant to ORS 459A.863(2)(b)(M)(i), their packaging and paper products are exempt from being a covered product under the Recycling Modernization Act. Producers do not need to report or pay fees to a PRO for those materials.</p> <p>The large majority of cannabis products in Oregon are not distributed under a prescription. While, as a practical matter, any "drug" in ORS 689.005 or 689.515 is subject to regulation by the Oregon Board of Pharmacy, it is DEQ's understanding is that cannabis products such as those sold at dispensaries are not; rather, they are regulated by the Oregon Liquour and Cannabis Commission. Because these cannabis products are not regulated as a "drug" under ORS 689, their packaging (and associated paper products) would not be exempt under the Recycling Modernization Act. Such materials would be covered products and producers will be required to report and pay fees on them.</p>
19	Gift wrap, similar to writing paper or newspaper or magazines, is not 'packaging' but is eminently recyclable and in most forms is accepted for recycling. Can you clarify the distinction between a product being covered, and the status of a product being on the state's comingled acceptance list?	<p>Whether or not a product is "covered" under the Act (meaning producers need to pay fees for the product) is a separate distinction from whether or not a product is included in a recycling acceptance list and is therefore considered recyclable in Oregon. The law defines "covered products" as non-exempt packaging, food serviceware, and printing and writing paper. If your product falls into one of these three categories and does not have a specific exemption in the statute or rule, it is considered a covered product. This applies equally to products that are recyclable, non-recyclable, compostable, or reusable.</p> <p>Products that are either outside of the scope of the law (i.e., are not packaging, paper, or food serviceware) or are specifically exempt from the definition of "covered product" may still be on a recycling acceptance list -- examples include scrap metal (outside the scope of the law), gift wrap (outside the scope of the law), and paperback books (exempt from "covered product"), all of which are on the Uniform Statewide Collection List.</p>
20	Are hangers included in packaging?	<p>Because clothes hangers do not contain or protect products, they do not meet the definition of "packaging" at ORS 459A.863(18), and they are as such outside the scope of the law.</p>

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21	Is paint packaging that is not collected through Paint Care exempt? Is architectural paint exempt?	There is an exemption in the statute at ORS 459A.863(6)(b)(I) that applies particularly to architectural paint packaging. If an architectural paint product is sold in Oregon and then the container is brought back to the PaintCare EPR program, that container is exempt because it was managed through a separate EPR program. An architectural paint container sold in Oregon that was not returned to PaintCare is not exempt, and a producer would need to pay fees for such a container.
22	How are production fees handled for B2B transactions? For example, when a business sends goods to a retailer for final sale to consumers, is the final business point of sale responsible for paying the PRO fee?	For an item sold at physical retail, the producer obligation is assigned pursuant to ORS 459A.866(1)(a) and generally the brand-holding manufacturer of the item in the packaging bears the obligation to register with the PRO and pay the fees for the product rather than the retailer of the product. Pursuant to OAR 340-090-0860(1)(a), retailers would be the obligated producer if they are directing the manufacturing of a product, which could be the case for house-branded products.
23	Is B2B packaging that doesn't enter the recycling stream a covered material?	B2B packaging is in the scope of this law, whether it is recyclable or not, unless it qualifies for a product-specific exemption in statute or rule. With respect to exemptions that might be relevant to this case, packaging that is collected and recycled outside of Oregon's Opportunity To Recycle framework and commingled recycling system could qualify for the exemption at ORS 459A.869(13) if it meets all three exemption criteria. These criteria are further clarified at OAR 340-090-0840(3), and the process for producers to claim this exemption will be clarified in January 2025.
24	Do producers still have to report on products that are exempt?	For most product-specific exemptions, producers will be able to merely exclude the material in question from their reporting to the PRO, and no reporting will be called for. This is certainly the case for exemptions that apply on a blanket basis to a class of products. However, there are two other broad groupings of exemptions - 1. exemptions applied to a subset of product supply on the basis of who it is sold to/how it is used, and 2. exemptions applied to a subset of product supply on the basis of how it is managed at end of life. For these exemptions, reporting may be required to corroborate that they are being applied accurately. An example of which some producer reporting will be required is ORS 459A.869(13), the exemption for packaging that is collected and recycled outside of Oregon's Opportunity To Recycle framework and commingled recycling system. The statutory language indicates that a producer "must demonstrate" that its products meet the three criteria for exemption. The process for claiming this exemption will be communicated to producers in January 2025.
25	Can you give an example of when pallet wrap is added by someone other than the obligated producer?	One example covered in webinar 3 involved a product going from a manufacturer to a distributor to a retailer where the product is sold. The distributor might repackage the product received from the distributor and apply new pallet wrap before sending the products onward to the retailer. Such pallet wrap is exempt from the definition of "covered product" pursuant to ORS 459A.863(6)(b)(H).
26	Regarding private label, is the licensee of the label on a can the responsible party for the fees and reporting, and not the supplier?	Clarifying language for the three-tiered producer definition for items sold in packaging at physical retail at ORS 459A.866(1)(a) is located at OAR 340-090-0860(1)(a). Pursuant to this rule, in such a scenario, two key questions should be posed to determine which entity must bear the obligation to pay fees to a PRO: 1) does the contract confer the right to use of the brand from the brand holder to the manufacturer--i.e., is it a licensing agreement?, and, if not 2) Does the brand holder direct the manufacturing of the item, by setting the specifications for the item's packaging or otherwise? If the answer to question #1 is "yes," the licensee-manufacturer is the obligated producer pursuant to tier two of the producer definition at ORS 459A.866(1)(a)(B). If the answer to question #1 is "no" and the answer to question #2 is "yes," the brand holder is considered the "manufacturer" and is the obligated producer pursuant to ORS 459A.866(1)(a)(A).
27	Is sales packaging sold to commercial end users included or exempt?	From the way the question is framed, it is not entirely clear what the intended scenario is -- has a business purchased an item that it will use and that is sold in sales packaging? If so, that sales packaging is obligated just the same as for an item sold to a non-commercial end user. Or is the scenario rather that a packaging producer has sold sales packaging to a business that will subsequently package its products in the packaging? For example, a bag of bags? In such a case, the outer bag would be the obligation of the packaging producer if it is the manufacturer and holder of the brand under which the bags are being sold. And obligation for the inner bags would depend upon what is ultimately contained in the bags -- if they are used to package items manufactured and sold under the brand of the business that purchased the bag of bags, then that business is obligated for the bags.
28	We sell small CO2 cartridges used for filling bicycle tires (20-38g). Would these be excluded?	Pursuant to OAR 340-090-0840(2)(e)(C), CO2 pressurized cylinders that are refillable or reusable and have a volume of five pounds or more are exempt. All other CO2 pressurized cylinders remain in scope. The products about which the commenter has inquired remain in scope because they're under that 5 pound threshold, and presumably are not refillable or reusable.
29	Are rigid pallets in scope?	Rigid pallets used as the structural foundation for transporting goods lifted by a forklift, pallet jack, or similar device are exempt. Also, pallet wrap or similar packaging used to secure a palletized load if added by a person other than the producer of the palletized covered product, is exempt. See ORS 459A.863(6)(b)(D) and (H).
30	Are over-the-counter drugs exempt?	Yes. There is an exemption in statute for both prescription and non-prescription drug packaging -- see ORS 459A.863(6)(b)(M).
31	Who is a consumer? If I am selling directly to a business (not retail), are they the consumer?	Pursuant to ORS 459A.866(1)(b)(B), a consumer would be any end user of an item sold in packaging, be it a private citizen or a business. End use refers to any use besides redistributing or reselling the item.
32	If you have greater than \$5 million in international sales, but do not sell more than one ton of packaging into Oregon, is reporting necessary or are you exempt?	You need to only meet one of the criteria for being a small producer in order to be a small producer. So if the producer sells or distributes less than 1 metric ton of packaging into the state, they are exempt as a small producer even if they have more than \$5,000,000 in global international revenues.

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33	Who would be the producer for any non-branded packaging in which the product is shipped to the consumer from an ecommerce website?	Pursuant to ORS 459A.866(1)(b)(B), the obligated producer for the outer packaging used to ship the item to the consumer is the entity that applied the packaging and shipped the item -- this obligation is therefore applied irrespective of the branding on the shipping packaging. As for the inner packaging used to directly protect and contain the item, the obligation is conferred using the three-tiered producer definition at ORS 459A.866(1)(a), generally lying with the brand-holding manufacturer of the item contained in the packaging.
34	Who is the producer for a company that does branded promotional items for other companies? Such as SWAG or giveaways.	The scenario in question is not entirely elucidated by the commenter -- is the company that "does" branded promotional items the manufacturer of said items? Are the items being sold at physical retail, or by remote distribution? Are the items being sold under the brand of the manufacturer? (while presumably the items themselves bear the brands of the companies that are buying the products, the packaging may bear the brand of the manufacturer). Responses to these questions will help the commenter to navigate the assignment of obligation pursuant to ORS 459A.866(1)(a) (if the products are sold at physical retail) and/or ORS 459A.866(1)(b) (if the products are sold via remote distribution).
35	Can you clarify whether it is just the reusable pallets, or also the disposable pallet wrap, that is exempt?	Rigid pallets used as the structural foundation for transporting goods lifted by a forklift, pallet jack, or similar device are exempt. Pallet wrap or similar packaging used to secure a palletized load, if added by a person that is not the producer of the palletized covered products, are also exempt. See ORS 459A.863(6)(b)(D) and (H).
36	How does the B2B obligation work for food serviceware?	Pursuant to ORS 459A.866(3), the obligated producer for food serviceware is the first seller in or into the state. This applies regardless of whether or not the food serviceware is ultimately used by a consumer -- say, at a restaurant -- or by a business -- say, at a corporate cafeteria. You may refer to the first webinar in this series for more information and scenarios with respect to food serviceware.
37	What about a producer that is not a food and beverage company? Is there any scenario or does the same apply as Scenario B and F in the slides?	The first four scenarios presented in webinar 3, on slides 42-45, featured food and beverage manufacturing scenarios, but were illustrating the three-tiered producer definition for items sold in packaging (ORS 459A.866(1)(a)), and one can substitute other types of products into these scenarios and the same outcomes will apply.
38	What happens if a material is not on the list?	Whether or not a product is included in the definition of "covered product" is a separate consideration from whether or not a product is on a recycling acceptance list and therefore considered recyclable in Oregon. Covered products under the Act encompass non-exempt packaging, food serviceware, and printing and writing paper. If a product falls into one of those 3 categories and it does not have a specific exemption in statute or rule, it is a covered product, and an obligated producer must pay fees to a PRO for it (unless the obligated producer is exempt as a small producer). This applies to both recyclable and non-recyclable materials.
39	Do PE tubes fit into any existing categories?	Polyethylene tubes that are products -- for example, tubes used in drainage and chemical processing applications -- are outside of the scope of the law. Polyethylene tubes that are packaging are covered products. With respect to the category that polyethylene tube packaging would fit into, it is not clear if the commenter is asking about PRO reporting categories, or recycling acceptance list categories. Such items would likely fit into the Circular Action Alliance reporting category of "PET #1 Other Rigid Items." These items are not on a recycling acceptance list in Oregon at present.
40	Are Aluminum beverage cans exempt as they are covered in another law?	Beverage containers that are covered by the Bottle Bill are exempt from the definition of "covered product," meaning that producers need not pay fees to the PRO for the products. However, secondary and tertiary packaging of beverage containers remains within the scope of the Act unless the obligated producer sells or distributes less than 5 metric tons of this packaging into the state, in which case they would qualify as a small producer.
41	Are paper tags, such as those attached to apparel, a covered material?	Tags attached to apparel are not packaging because their function is to inform a consumer rather than to contain or protect a product. While technically they meet the definition of "printing and writing paper," DEQ and CAA will not, initially, implement producer fees for paper tags so as to not incentivize producers to switch to plastic tags, which cannot qualify as "printing and writing paper."
42	For Company A that sells to Company B outside of Oregon, Company A would still be responsible for reporting to Oregon for packaging. How would company A know where companies they sell to outside of Oregon have ultimately sold their products?	It is not clear which scenario from webinar 3 the commenter is referring to, perhaps Scenario #8, in which an appliance manufacturer sells to a distributor out of state who then sells to a retailer in Oregon who then sells to a consumer at physical retail. In such a supply chain the appliance manufacturer may face challenges to obtain data from the distributor on where the product went. However, a lack of data visibility does not relieve an obligated producer of the obligations to join a PRO, report sales data to the PRO and pay fees commensurate with those volumes. Obligated producers can work with supply chain partners (i.e., their distributors) to set up systems to generate these data, and pursuant to ORS 459A.869(3), if it is more convenient for a downstream partner to report the data and pay fees for a product, a producer may make arrangements to have the partner business bear the obligation (if the arrangement is mutually agreed upon). In cases where the obligated producer is separated from the use of the product by one or more intermediary nodes in the supply chain, producers may also estimate or pro-rate national sales data for Oregon's population pursuant to OAR 340-090-0700(1)(d).
43	Are labels considered packaging? Such as the label on a plastic food container sold at a grocery store?	Labels, like envelopes, are packaging in some instances, like when they are integrated into the packaging used for containment or protection of the product (such as the label on a plastic food container sold at a grocery store), or when they are used for shipping, pursuant to ORS 459A.863(18)(a)(C). However, in some contexts labels will be considered printing and writing paper, such as when sold together with stationary. CAA will provide additional guidance to producers on categorization of their products, including for labels.
44	Are clothing hangers, swift attachments and hangtags packaging? What are they reported under?	Clothing hangers, swift attachments, and hang tags are not packaging because they do not provide a function of containment or protection of products.
45	Can you provide some examples of how the top 25 producers / 1% of products would be calculated?	See response to question #1 for how the top 25 producers are determined. As for the 1% of their products that require evaluation and disclosure, this is covered in the response to question #14.

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46	Can small companies also receive a bonus for disclosure?	Two ecomodulation fee bonuses for voluntary impact evaluation and disclosure are mandated of the PRO pursuant to OAR 340-090-0910(3). These rules mandate that CAA make the two bonuses available to member producers, irrespective of their size. In its second draft program plan, CAA has proposed to apply caps to the bonus amounts in part to prevent large producers from benefitting from the bonuses out of measure with small producers (i.e., as an equity measure).
47	Will post-consumer content count towards ecomodulation calculation?	Post-consumer recycled content is one of five statutory factors that a PRO must consider in devising its approach to ecomodulation, pursuant to ORS 459A.884(4)(a). This does not necessarily mean that the PRO will propose to use post-consumer recycled content as a criterion for adjustment of producer fees; the PRO may rather explain in the program plan how they took it into account otherwise (for example, by implementing the life cycle assessment-based fee reductions mandated by OAR 340-090-0910(3), as the use of post-consumer recycled content is factored into the life cycle assessment methodology used in the producer evaluation and disclosures that must be used to corroborate substantial impact reduction), or that they considered using it as a criterion but decided not to. The commenter may refer to CAA's program plan submissions to review its ecomodulation proposal.
48	Are PET blisters collectable? If a primary packaging consists of both card and PET blister that are separable, are they treated as separate packaging's essentially?	PET blister packaging is not included on a recycling acceptance list for Oregon currently. If a product's primary packaging consists of both PET blister and card, the producer will report the weights of blister and card sold or distributed into Oregon in two separate reporting categories, "PET #1 Other Rigid Items" and "Paperboard"). Needing to report against different categories is going to be the case for most products' packaging, as there is generally more than one material involved if you consider primary, secondary and tertiary packaging. Packaging made of two or more different types of material should however be reported toward the same category if the packaging components are considered non-separable from one another -- e.g. if there are instructions on the package that the components be joined prior to disposal, or if the components are generally joined together at disposal, such as a cap with a bottle or a bottle sleeve.
49	Do producers have to register with OR DEQ, as well as CAA?	Producers need only register with CAA. CAA must provide OR DEQ with list of registered producers and with data for calculation of producer market share as part of annual reporting.
50	While Final Fees will be published in May 2025? Will there be a share out of preliminary fees? This would be helpful to understand this from a budgeting standpoint.	See the response to question #10 above; producers can access increasingly-accurate, preliminary fee schedules in CAA's successive program plan submissions, available on the main webpage for the Act: https://www.oregon.gov/deq/recycling/Pages/Modernizing-Oregons-Recycling-System.aspx .
51	Are the products themselves included in packaging EPR legislation and reporting? For example, if I sell pens that come in a blister pack, would I need to report on the packaging used to package the pens, but not the plastic that makes up the pens themselves.	Products sold in packaging that are covered products under the Act include printing and writing paper, food serveware, and "packaging-like-products" (not an official name in Oregon but the term used in Canadian EPR) including storage items, file folders, file boxes, moving boxes and single-use bags (these are basically packaging that the consumer rather than the producer fills). Other products sold in packaging, such as pens, are outside the scope of the law.
52	When will CAA provide guidance for producers on the data needed?	CAA is providing guidance to producers on categorizing their packaging for reporting purposes on an ongoing basis in fall and winter of 2024-2025. Sixty reporting categories specific to Oregon have been approved by DEQ through the program plan review process, allowing producers to begin assembling their supply data for the March 31, 2025, pre-registration deadline mandated under OAR 340-090-0870.
53	"Producer fee obligations begin July 1, 2025" meaning producers must pay by July 1, 2025 or fees start accruing from July and are due at a later date? Or on July 1, 2025, will producers need to pay for previous calendar year of packaging fees?	Producer fee obligations begin on July 1, 2025, meaning that date is the enforceable date by which producers may be subject to fees under the RMA. CAA will provide guidance to producers regarding invoicing and fee payment deadlines.
54	If we have registered with CAA, do we also have to register in applicable states?	CAA's registration form allows producers to register across states where CAA is approved/active through a single form.
55	If I want to discuss our specific situation (which involves sale of our product to another business, who then installs the product in a home), who could I talk with (back and forth Q&A) to confirm obligation or not?	Producers are welcome to reach out to CAA at any time to set up a meeting, using CAA's Producer.Support@CircularAction.org email. In October 2024, CAA released published for producers in Colorado and Oregon, which producers may review to support their determination. Additional published guidance is forthcoming. While CAA is providing guidance to producers, CAA will not make a formal determination of a producer's obligation. Each producer will need to review the statute and CAA's guidance with their legal counsel to make a determination of obligation.
56	What or Who determines if a product is recyclable? For instance, if your product is food contact PET, is the definition of recyclable determined by CAA, DEQ, APR...?	Recycling acceptance lists, including the Uniform Statewide Collection List (USCL - a list of materials that can be collected commingled) and the PRO Recycling Acceptance List (a list of materials that the PRO will collect at collection points) was put into rule at OAR 340-090-0630 during the first rulemaking with consultation from interested parties. Pursuant to ORS 459A.914(4)(b), CAA may propose additions to the USCL through the program plan process. With specific respect to food contact PET, PET bottles and tubs are on the USCL, and PE film is on the PRO Recycling Acceptance list.
57	If you sell B2B packaging into Oregon, how do you know if the retail partner is recycling the corrugate and it is exempt?	CAA and DEQ are currently in discussions regarding the implementation of the exemption for collection and responsible recycling outside of the Opportunity To Recycle framework and commingled recycling system, and will in January 2025 communicate resultant guidance to producers, who pursuant to ORS 459A.869(13), must demonstrate that they meet the criteria for this exemption in order to claim it.

WEBINAR SERIES: PREPARING PRODUCERS FOR OREGON PACKAGING EPR
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Q&A Extended Response

#	Question	Answer
58	The plastic wrap that goes onto one of our products aids in the manufacturing process, and could be considered a weatherization package. Is the plastic wrap we buy in scope? Therefore, if the manufacturer adds wrap, is it in or out of scope?	There is no exemption in statute nor proposed in rule for packaging that serves a weatherization function; as such, this plastic wrap packaging is in scope. Refer to ORS 459A.866(1)(a) and (1)(b) to determine which producer bears the obligation for the wrap packaging (likely the manufacturer/brand-holder, pursuant to ORS 459A.866(1)(a)(A)).
59	Are no fees due to CAA until July 2025 for Oregon?	Yes, see the response to question #53 above.
60	How are sales in the state calculated for exemption if sold through online retailers?	It is not clear exactly what the commenter is asking about here -- calculation of product-specific exemptions, or qualification as an exempt small producer? If the latter, the de minimis threshold of \$5 million is not for Oregon sales, but rather for international annual gross revenues.
61	Would product hang tags be considered packaging?	No, see the response to question #44 above.
62	Who is responsible for e-commerce marketplaces or direct to consumer marketplaces?	For items sold in packaging via remote sale, the person that packages and ships the item for sale into Oregon is the obligated producer of the outer shipping packaging. The producer of the packaging that direct contains or protects the item is the same as if the item were sold via physical retail sale -- i.e., for both scenarios, obligation is assigned using the three-tiered definition at ORS 459A.866(1)(a)).
63	If a product does not have packaging but has loose labels (e.g., a price tag or size tag) (not use to protect or contain the packaging) is the labelling a covered product?	See the response to question #41 above.
64	We are a distributor of other brands' products that we import. What defines if the imported brand has a US presence?	If a brand holder has a representative office or manufacturing facility in the United States, that qualifies as a US presence pursuant to ORS 459A.866(1)(a)(C).
65	We do not have visibility to what retail storefronts our retail partners ship to after it leaves their distribution centers. Are they obligated to provide us with this data?	Statute and rule do not require downstream supply chain partners to provide sales data to obligated producers, but an obligated producer may want to write such a requirement into their contract with a distributor.
66	When will eco-modulation and other concepts, like moving from single use to reusable, be implemented within the program? Will it directly impact fees due from producers or be operating independently depending on the material/model?	CAA addresses the Act's requirements for graduated fee adjustments (aka "ecomodulation") in its draft 2 program plan submission -- specifically, CAA outlines its approach for implementing two mandatory fee reductions pursuant to OAR 340-090-0910(3), one of which is a bonus for substantial impact reduction as demonstrated through life cycle assessment that would reward qualifying producers for switching from single-use to reusable packaging. CAA proposed to implement this bonus from the 2028 fee year onward; DEQ in its response asked that the start date be moved to 2027. CAA's third draft, containing revisions aligned with DEQ's response, is expected on December 6, 2024.
67	If you ship product and packaging to a retailer in California and they then distribute in Oregon without your knowledge, who is liable?	Producer obligations for items sold in packaging are determined according to ORS 459A.866(1)(a) (for items sold at physical retail) and (1)(b) (for items sold by remote distribution). To summarize what is prescribed at these citations, brand-holding manufacturers of items sold in packaging are generally responsible for the packaging that contains and protects packaged items (they are tier one in the three-tiered definition at (1)(a)), and the persons that packaged and shipped items sold by remote distribution are responsible for the outer shipping packaging of items sold via remote distribution. The commenter here does not specify how the item is ultimately sold in Oregon - at physical retail or by remote distribution. Other necessary aspects of the scenario for assignment of obligation are also left out (who is the manufacturer and holder of the brand under which the product is sold?). But generally, if the manufacturer-brand holder is the one shipping to the California retailer who then sends onward to Oregon, the manufacturer-brand holder would be responsible for all of the packaging except possibly additional shipping packaging added by the retailer if the products are remotely distributed to an end user in Oregon.
68	Are there fees due besides the July 2025 packaging fees? Any others earlier?	No fees can be charged by the PRO before July 1, 2025.
69	Why are recyclables in scope?	There are a few reasons for this approach. First, the law is not intended to incentivize switching to non-recyclables. Secondly, producers of non-recyclable covered products are required to contribute because non-recyclables often end up as contaminants in the recycling system, and as such producers of these products need to help modernize and improve the system. Finally, the Act is not solely focused on recycling; it also includes waste prevention and reuse components (the PRO pays an annual fee to the department to promote reuse and reduction within the state).