



State of Oregon Department of Environmental Quality

Draft Fiscal Impact Statement

Mattress Stewardship Program, 2023 Rulemaking

Introduction

The Oregon Legislature adopted Senate Bill 1576 (2022), establishing a mattress stewardship program in Oregon that must provide for the collection and environmentally sound management of discarded mattresses. The Mattress Stewardship Act requires a stewardship organization to submit a program plan to DEQ by Oct. 1, 2023. After its program plan is approved, the stewardship organization must ensure producers, retailers and renovators are registered under the plan and implement the program statewide. These entities must be registered under an approved plan in order to sell mattresses in Oregon.

DEQ invites public input on proposed permanent rule amendments to Chapter 340 of the Oregon Administrative Rules. The proposed rules will support DEQ's oversight of a new statewide mattress stewardship program in Oregon.

Fee Analysis

These proposed rules would establish new fees. SB 1576 provides the authority for the Environmental Quality Commission (EQC) to act on the proposed fees.

Brief description of proposed fees

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, including startup costs. This fee would be assessed to any stewardship organization with a program plan approved by DEQ. DEQ proposes to establish fees for year one, year two and onward.

- First year: \$205,000
- Second year and onward: \$200,000

Reasons

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

Fee proposal alternatives considered

DEQ requires an annual fee in order to cover the Department's costs to oversee and administer a mattress stewardship program. Different options for structuring the annual fees were considered; after considering the Rulemaking Advisory Committee's input, DEQ recommends setting the fees as proposed, with higher fees in the first two years to cover start-up costs.

Maintaining the status quo by not establishing fees would put DEQ out of compliance with the requirements set by Section 9(3) of SB 1576. Additionally, this lack of funding would hamper DEQ's ability to fulfill its obligations under SB 1576, which requires DEQ to oversee and administer the Act, including the review and approval of program plans and annual reports, as well as program oversight, compliance and enforcement.

Fee payer

The fee payers include any stewardship organization operating an approved mattress stewardship program plan in Oregon.

Affected party involvement in fee-setting process

DEQ convened a Rulemaking Advisory Committee that included appointees representing a variety of interests directly and indirectly affected by the proposed rules. The Committee met on Dec. 8, 2022, 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 Oregon based on the overall operating cost of the program. In other applicable states with a mattress program, the state agency's annual fee is a very small percentage of the overall program cost.

Two other proposed rules address what a stewardship organization must provide to DEQ in terms of information in annual reports and as part of notifications 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. This likely would not have an impact outside DEQ.

Fee payer agreement with fee proposal

Parties to potentially be affected by this proposed annual fee were included during RAC meeting discussion, but no agreement is required in order 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, each year by April 1, DEQ would notify a stewardship organization of the annual fee for the upcoming calendar year. There would likely be only one fee payer, but plans are not due from stewardship organizations until October 2023. The annual fee is due from a stewardship organization on July 1 of each year. As previously mentioned, the annual fee in year one and year two is higher in order to recoup DEQ program start-up costs incurred for the program development and activities such as this rulemaking – proposed as \$205,000 and \$200,000 respectively. The annual fee in year three and beyond will also be 200,000, but with the ability for DEQ to reduce the fee in a given year if a lesser amount is adequate to cover program costs for that year.

Statement of Fiscal and Economic Impact

Fiscal and Economic Impact

Overall, the rules would have an impact on stewardship organizations 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

There may be an indirect impact to state agencies that purchase mattresses. DEQ is the only state agency that would experience direct costs associated with the proposed rules but is proposing to cover those costs with new fees.

Local governments

The proposed rules would not have a significant impact on local governments, as the rules mainly apply to a stewardship organization. The law and the program are new; however,

and 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 communities and on public lands. Additionally, there may be an indirect impact to local governments that purchase mattresses.

Public

There may be an indirect impact to the consumers that 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 communities surrounding. 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

A stewardship organization that is a large business would be impacted by the proposed rules as described above. Other large businesses likely would not see significant fiscal impact based on these proposed rules. SB 1576 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 in a large business's administrative costs. A stewardship organization's program plan may include administrative impacts to businesses, in order to implement the program. Plans are not due until Oct. 1, 2023. A large business might also 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 Effect on Small Businesses

1. Estimated number of small businesses and types of businesses and industries with small businesses subject to proposed rule.

A small business that seeks to operate as a stewardship organization is likely to be affected by the proposed rules.

The new law will likely have some effect on small businesses who 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, renovators or purchasers in the state, although the overall costs of the mattress program would be dispersed among mattress purchasers through an assessment fee.

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

A small business that chooses to participate as a stewardship organization will likely incur costs relating to professional services, reporting, record keeping and other administrative duties. These are expected components of a program plan and will be presented in the operating budget of a program plan submitted to DEQ.

Small businesses that are manufacturers, retailers or renovators may need to engage in more administrative activities in registering with a stewardship organization, as required by the new law.

3. 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.

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

DEQ included small businesses that may be affected by the proposed rules, including a mattress recycling business and a potential stewardship organization. Due to the limited scope of this rulemaking DEQ did not include small businesses such as hotels or mattress retailers. The way the law is structured, DEQ is required to appoint a separate advisory committee to advise DEQ on program plans submitted by stewardship organizations for DEQ approval. Plans submitted will include a proposed assessment amount and have the potential to affect these businesses; thus, 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: https://calrecycle.ca.gov/Mattresses/Budgets/
2022 California Amended Program Plan	CalRecycle Mattress Plans Webpage: https://calrecycle.ca.gov/Mattresses/Plans/

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 will review the draft fiscal and economic impact statement and its findings will be stated in the approved meeting summary dated Feb. 3, 2023.

The committee will determine if the proposed rules would or would not have a significant adverse impact on small businesses in Oregon.

As ORS 183.333 and 183.540 require, if a significant adverse impact is determined, the committee will consider how DEQ could reduce the rules' fiscal impact on small business by:

- Establishing differing compliance or reporting requirements or timetables for small business;
- Clarifying, consolidating or simplifying the compliance and reporting requirements under the rule for small business;
- Utilizing objective criteria for standards;
- Exempting small businesses from any or all requirements of the rule; or
- Otherwise establishing less intrusive or less costly alternatives applicable to small business.

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 intended to give clarification to the stewardship organization, specifically pertaining to 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 funds needed to administer and oversee the mattress stewardship program. With this funding, DEQ is tasked with responsibilities, including reviewing a stewardship organization's plan and ensuring it 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. 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. Further, DEQ appointed several members to the rulemaking advisory committee who might have insight on this perspective, including those 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, generally. This improves the overall environmental impacts of mattresses that, when dumped illegally, can contribute to dangerous accumulation of materials when not collected by waste haulers or other entities.

Communities that experience disproportionate environmental burden are less likely to have timely and efficient waste removal performed by municipal and private entities, due to the disparity of services provided based on income and other socio-economic factors. By establishing rules and related fees for the responsible management of mattresses, DEQ's 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.

Alternative formats

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.oregon.gov.

El DEQ puede proporcionar los documentos en un formato alternativo o en un idioma distinto al inglés si así lo solicita. Llame al DEQ al 800-452-4011 o envíe un correo electrónico a deqinfo@deq.oregon.gov.

DEQ 可以根據要求提供另一種格式的文件或英語和西班牙語以外的語言。請致電 DEQ : 800-452-4011 或發送電子 郵件至 : deqinfo@deq.oregon.gov.

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