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June 16, 2010

OUTLINE OF INFORMATION TO BE INCLUDED IN:

OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY REPORT TO THE LEGISLATURE PRODUCT STEWARDSHIP POLICY AND PRIORITIES

A. Background

- Purpose and problem
- Stakeholder process
- Participation
- General summary of stakeholder process results
- Summary of product stewardship in Oregon

B. Product stewardship – what is it?

- Key information presented – definitions and principles
 - *Questions:*
 - *What general concept of product stewardship guides the policy in Oregon?*
 - *Key points from discussion:*
 - Product stewardship can be considered a fully shared responsibility approach or it can be looked at as primarily producer responsibility.
 - In Oregon the terms product stewardship and producer responsibility are used interchangeably, having the intent of primary producer responsibility.
 - The product stewardship programs legislated in Oregon are primary producer responsibility programs.
 - The Oregon concept of producer responsibility is: Product stewardship is an environmental management strategy in which all parties involved in the design, production, sale and use of a product take responsibility for minimizing the product's

environmental impact throughout all stages of the product's life. The greatest responsibility typically lies with the producer, who has the most ability to affect the lifecycle environmental impacts of the product.

- Product stewardship generally requires producers to finance and manage systems for the collection, recycling or safe disposal of discarded products convenient to consumers and with minimal government involvement.
- Product stewardship policy should address “upstream” lifecycle impacts as well as “downstream” or end of life management.

▪ *What product stewardship principles guide Oregon policy?*

• *Key points from discussion:*

- It is useful not to have a rigid definition of product stewardship, but use general principles to guide policy and direction.
- Producers have primary responsibility, retailers, government, end-of-life waste managers, and consumers play key roles.
- Governance includes performance standards with producer flexibility in implementation; assurance of level playing field for all producers; and minimal government role.
- Producers finance system with no end-of life fees for the consumer.
- Waste is managed using environmentally sound management practices.

C. Product Stewardship as Tool for Sustainability (reducing lifecycle impacts of products)

Note: This topic will be addressed in meeting # 4.

○ *Questions:*

- *What are the environmental and public health objectives of product stewardship?*
- *What drivers or policy direction should Oregon pursue to reduce lifecycle impacts, particularly “upstream”?*
- *What actions can help till the soil for future product stewardship policy that will reduce lifecycle impacts? What should we do at the state level, what at regional or national level?*

D. Governance and Core Program Elements

• **Roles and responsibilities presented to the group**

- Producers – 1) finance and implement end-of-life management systems; and 2) reduce lifecycle impacts
- Retailers – 1) sell only compliant brands; and 2) inform consumers about recycling services

- Government – 1) approve plans; 2) oversee programs; 3) assure level playing field; and 3) provide public education and outreach
- Consumers – 1) return discarded products through the system; and 2) comply with disposal bans
- *Question:*
 - *What is the primary role and responsibilities for each entity in the system?*
 - *Key points from discussion:*
 - The basic roles and responsibilities, described in the presentation at meeting #2 and noted above, were generally acceptable to the group. The following additional points should be considered:
 - All roles and responsibilities should be looked at from the perspective of “upstream” lifecycle impacts as well as collection and end-of-life management.
 - Producers have primary responsibility for lifecycle impacts of products and for environmentally sound end-of-life management of identified waste products.
 - Stewardship organizations established by producers should have roles and responsibilities defined in legislation.
 - Producers should work with existing infrastructure.
 - For some products retailers should have a larger collection role, e.g. NY law for rechargeable batteries.
 - Government should have the role of compliance and oversight, including the assurance that environmental standards and practices are met by waste handlers.
 - Producers should be responsible for reducing toxics in products.
 - Collectors, recyclers, and waste managers should be included as parties with key roles and responsibilities for end-of-life waste handling and management. Their role should include: 1) provide services as requested/contracted by producers; and 2) comply with established standards and environmentally sound management practices.

- **Level playing field – to sell product must participate in program**
 - *Questions:*
 - *Is a level playing field important/essential for a legislated program?*
 - *What are the most effective ways for government to ensure a level playing field? Examples: E-waste: registering all producers; Paint – producers organize and monitor themselves, government does limited check-up.*
 - *Key points from discussion:*
 - General agreement that a level playing field for producers is important for legislated programs, but may not be necessary for voluntary programs. The following additional points should be considered:
 - The concept of level playing field should be considered for other system components, such as being able to select from a pool of existing collection and processing infrastructure, and use of retailer collection points.
 - Government should set and enforce consistent environmental standards for all collection and processing system participants.
- **Financing**
 - *Questions:*
 - *What are the core principles of system financing?*
 - *Key points from discussion:*
 - No disagreement that 1) producer is responsible for end-of-life system financing in legislated programs; 2) System collection services are provided at no cost to the consumer at product end-of-life. The following additional points should be considered:
 - Voluntary programs may result in the retailer bearing the cost for collection in cases where the retailer is providing collection.
 - System funding should consider cost effectiveness to the consumer, e.g. consider the price point of the product and relative cost to recover the product at end-of-life.
 - If there is to be an eco-fee approach, producers should manage the funds collected to implement end-of-life programs. When government manages a fee there is risk of the funds being raided in economic down-turns.
 - Both eco-fee systems and stewardship organizations should consider financing mechanisms based on the cost to recycle/recover a product and/or the level

/type of toxic constituents in the product or generated in the production of the product.

- **Producer plans**

- *Questions:*

- *Are producer plans the right tool to allow for both producer flexibility and assure services and accountability to the public?*
 - *How should plan requirements be written in order to assure an effective program? When can they be general to provide flexibility; when do they need to be detailed to ensure performance? Provide examples of key plan requirements.*

- *Key points from discussion:*

- No disagreement that producer plans are a good mechanism to assure system services and accountability and allow for producer flexibility. The following additional points should be considered:
 - The plan development process should allow time and mechanisms to bring all system participants and interests together.
 - Producers should have the first option to design/draft the plan.
 - Plans should address product improvements “upstream” and collection and end-of-life management “downstream”.
 - Plans should address environmentally protective standards.

- **Collection convenience**

- *Questions:*

- *What are the most essential attributes of a convenience standard?*
 - *How important is the assurance of convenient collection in both urban and rural areas of the state?*

- *Key points from discussion:*

- No disagreement that some level of convenience standard for end-of-life collection should be included in legislated programs. The following additional points should be considered:
 - Assuring convenient collection options in both urban and rural areas of the state is important. If these do not exist there is a higher risk of illegal dumping and increased cost to local governments.
 - Differing feedback on the concept that “it should be as easy to recycle as it was to purchase”. One hand why shouldn’t the consumer be able to return the

product at end-of-life back to where they purchased it. On the other hand, some products - due to size, volume, short life span, retail staffing and space, etc. – do not fit this concept.

- Convenience can be a driver for performance, but not in all product cases, e.g. batteries are small and easy to store in a draw or simply throw n the trash. Making them convenient to collect does not guarantee large amounts will be recovered.
- In setting convenience standards consider things such as: 1) how the product came to the consumer; 2) potential need for regulation of the infrastructure; 3) cost and benefit; 4) consumer fear of the handling the product; 5) shifting of revenue; 6) big bulky products provide a challenge to retailers; 7) consumer ease of returning the discarded product back to where they purchased it; 8) frequency of need to dispose of product/lifespan of product.
- Different types of products may warrant different types of convenience standards for collection. Consider the free market perspective of how the producers get their products to the consumer, e.g. McDonalds vs. large TVs sold by Best Buy, and carpet that usually comes to the consumer via an installer.
- In order to have adequate collection opportunities in rural areas, may want to consider the use of an incentive, such as allowing materials collected in designated rural areas to count more toward the performance goal.
- Public outreach about where to take the discarded product should be considered part of a convenience standard.

- **Disposal bans**

- *Questions:*

- *Does the Oregon approach to disposal ban for e-waste address the issues, for example:*
 - *Allowing time to get services in place?*
 - *Setting a reasonable approach to enforcement?*
 - *Are there criteria that should be considered in designing product stewardship programs for specific products to help decide when disposal bans are important and when it may not make sense?*
 - *Key points from discussion:*

- General tendency of group discussion was toward looking at a disposal ban on a product by product basis and not as a key element of all product stewardship programs.
 - Banning disposal gets us closer to closing the loop .
 - Disposal ban can draw attention to the mismanagement of the waste stream through export.
 - Examine the data and see if programs with bans have outperformed the programs/products that operate without a ban.
 - Toxicity of the product and the convenience of the collection system should be a factor in deciding of a ban is needed.
 - Consider whether a recycling mandate/requirement might be an effective approach instead – or in addition to – a disposal ban.
- **Environmentally sound management**
 - *Questions:*
 - *Is the inclusion of environmentally sound end-of-life management practices an essential element for a legislated product stewardship program?*
 - *Key points from discussion:* See comments made in other sections related to this topic.
- **Performance standards and measurement (To be discussed at meeting #5)**
 - *Questions:*
 - *How important are performance standards/goals for product stewardship programs in order to achieve results?*
 - *Should legislated programs include performance standards/goals?*
 - *What types of quantitative and qualitative performance standards should be considered (using product specific examples as appropriate)?*

E. Product identification (To be discussed at meeting #5)

- *Questions:*
 - *What key criteria should be used to identify and prioritize products or product groups?*
 - *What process should be used to select products or product groups?*
 - *What products or product groups should be the next priority focus for product stewardship programs in Oregon?*

F. DEQ Analysis and Recommendations to the Legislature - Next steps beyond 2010 (To be discussed at meetings #6 & 7)

- Recommendations
 - Response to Senator Dingfelder’s two questions 1) what is product stewardship and the key elements of product stewardship programs; and 2) How do we select products?)
 - Oregon legislative priorities

- Oregon DEQ product stewardship priorities – broad direction for 10 year solid waste plan update including:
 1. *“Upstream” and “downstream” priorities*
 2. *Near, medium, and long term direction*
 3. *Relationship to toxics, chemical policy, and climate change strategies as appropriate*

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