

Rulemaking Advisory Committee Meeting #3

Plastic Pollution and Recycling Modernization Act

Nov. 1, 2023
Zoom Meeting

Agenda

Time	Topic
9:05 a.m.	Welcome, overview of today's meeting
9:10 a.m.	Introductions- DEQ staff and RAC members
9:20 a.m.	Rule concept: Commingled recycling processing facility permit program
10:20 a.m.	BREAK
10:30 a.m.	Rule concept: Responsible end market obligations of commingled recycling processing facilities
11:20 a.m.	Updated rule concept: Living Wage and Supportive Benefits
12 p.m.	Public Input Period
12:25 p.m.	Next steps
12:30 p.m.	Meeting adjourns

Note: Times are subject to change and topics may begin earlier than listed

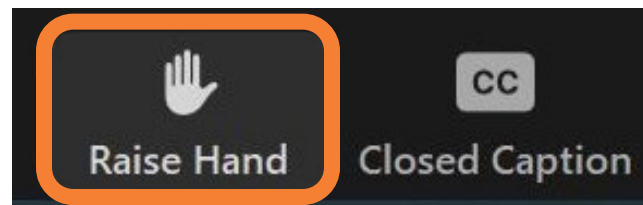
Meeting Tips

Join audio either by phone or computer, not both.

For panelist discussion and comments, use the raise hand button to get in the queue; if by phone press *9.

This meeting is being recorded.

For Zoom technical issues email stephanie.caldera@deq.oregon.gov or chat "Host and Panelists."



Meeting agreements

- Listen and treat everyone with respect
- Allow one person to speak at a time
 - please raise your hand
- Move around and take care of yourself as needed
- Share constructive feedback on rule concepts



Introductions- DEQ Staff



Roxann Nayar, Rulemaking Coordinator



Justin Gast, lead for processor permit/certification and fees topics



Nicole Portley, lead for responsible end market obligations



Stephanie Caldera, lead for living wage and supportive benefits topic

Introductions- RAC

Name	Affiliation	Representing
Aimee Thompson	Thompson Sanitary Service	Service Provider
Catherine McCausland	Reverse Logistics Group	Producer Responsibility Organization
Claire Dorfman	Amazon	Producer
Doug Mander	Circular Action Alliance	Producer Responsibility Organization
Greg Ryan	Pioneer Recycling	Commingled Recycling Processing Facility
Katy Nesbitt	Wallowa County	Local Government
Kristin Leichner	Pride Disposal	Service Provider
Marcel Howard	GAIA	Environmental

Introductions- RAC


Name	Affiliation	Representing
Maria Gabriela Buamscha	Lanin Iman Consulting	Community
Neil Menezes	General Mills	Producer
Rick Dukes	H2 Compliance	Producer Responsibility Organization
Rick Paul	Rim Rock Recycling	Community
Rob Jones	Waste Management	Commingled Recycling Processing Facility
Sydney Harris	Upstream Solutions	Environmental
Warren Johnson	Metro	Local Government
Will Posegate	Garten Services Inc.	Commingled Recycling Processing Facility

Questions?



CRPF Permit Program



 State of Oregon Department of Environmental Quality
Rule Concept: Commingled Recycling Processing Facility Permit Program
Plastic Pollution and Recycling Modernization Act (SB 582, 2021)
Rulemaking Advisory Committee Meeting 3, Rulemaking 2
10/19/23

Background
This memo provides background information and draft rule concepts for establishing a new commingled recycling processing facility permit program required under ORS 459A.955(1).

Commingled recycling processing facilities handling recyclables from Oregon are required by ORS 459A.955(1), on or after a date established by the Environmental Quality Commission, to obtain a disposal site permit issued by the Department of Environmental Quality.

ORS 459A.905 prohibits local governments, their service providers, or recycling reload facilities from delivering to a CRPF commingled recyclables that were collected pursuant to the uniform statewide collection list unless that facility is permitted, or if located outside of Oregon, is either certified or certifies that it meets the requirements of ORS 459A.955 or ORS 459A.956. As such, the proposed draft rule language for permitted facilities related to performance standards would also apply to a new certification program for out-of-state CRPFs handling Oregon-generated commingled recyclables.

Rule concepts for discussion at Nov. 1, 2023 RAC meeting

I. Permit requirements – Performance standards, capture rates

A capture rate performance standard measurement will quantify how well a commingled recycling processing facility performs the core function of sorting recyclable materials into marketable commodities and shipping those materials to the correct and responsible end market.

Per ORS 459A.955(2)(a):

(2) A disposal site permit issued to a commingled recycling processing facility must require the facility to:

(a) Sort all materials collected from the public so that materials do not become contaminants in other waste streams.

To meet these requirements, DEQ will establish performance standards associated with the proper sorting of commingled Uniform Statewide Collection List material entering processing facilities. Material not listed on the Uniform Statewide Collection List would be excluded from the capture rate-based performance standards.

1



CRPF Permit Program

What's a CRPF?

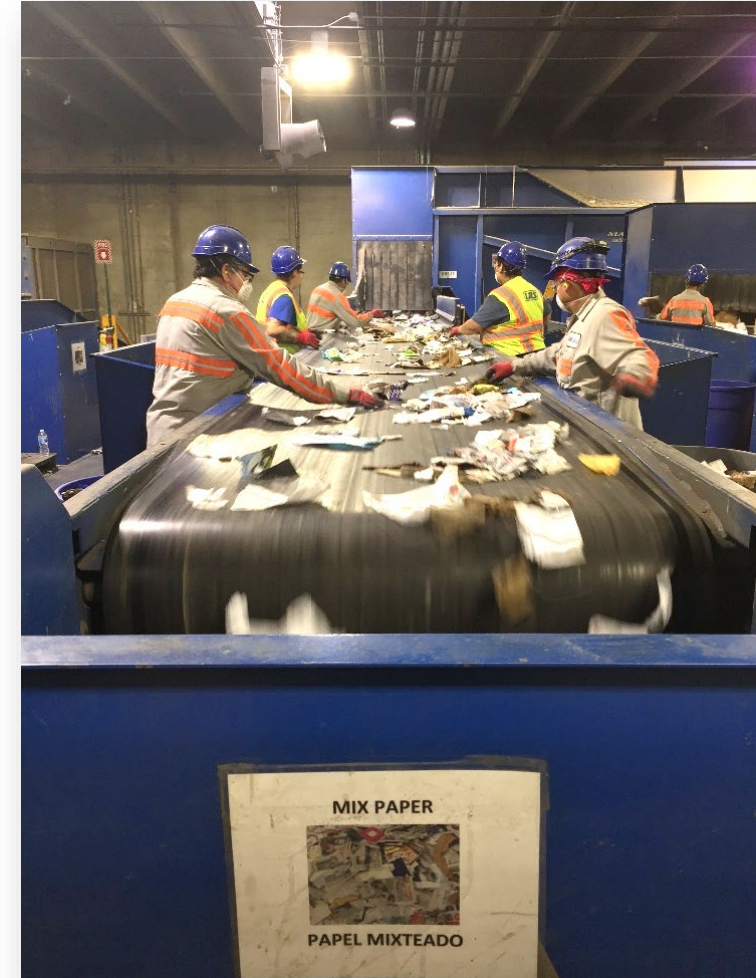
- Also known as a material recovery facility, or MRF.
- A facility that:
 - Receives source-separated recyclable materials that are collected commingled for a program providing the opportunity to recycle; and
 - Separates recyclable materials into marketable commodities or streams that are intended for use or further processing by others.



CRPF Permit Program

Why a new permit program?

- RMA requires that a person may not establish or operate a CRPF in Oregon unless the person obtains a disposal site permit issued by DEQ.
- Requirements specific to CRPFs:
 - Performance standards (capture rates and outbound contamination), including assessment of those standards.
 - Responsible end markets, including material disposition reporting.
- Two major funding mechanisms in the RMA are specific to CRPFs.



CRPF Permit Program

What will be addressed later during this rulemaking

- Performance standards – Outbound contamination rate(s)
- Permit requirements associated with ORS 459A.959
- Permit application and annual compliance fees

Addressed outside of this rule concept

- CRPF obligations relevant to responsible end markets to be addressed via Nicole's concept.



CRPF Permit Program

Performance standards – Capture rates

- The proportion of incoming recyclable material that is shipped to a responsible end market relative to the quantity of recyclable material that is received by the CRPF. The rate may be specific to a commodity or the stream as a whole.
- Capture rates quantify how well a CRPF performs the core function of sorting recyclable materials into marketable commodities and shipping those materials to the correct and responsible end market.



CRPF Permit Program

Performance standards – Capture rates

- Two-phase approach
 - July 1, 2025
 - Jan. 1, 2028 (day 1 of the new five-year program plan period)
- CRPFs can achieve capture rates by processing all of the material at their facility or processing some of the material, moving remaining material to another facility for secondary processing.



CRPF Permit Program

Performance standards – Capture rates, fiber

Fiber	July 1, 2025 Rate	Jan. 1, 2028 Rate
Cardboard (includes Kraft paper)	96%	97%
Printing and writing paper (includes newspaper, packaging tissue paper, telephone directories, non-metallized giftwrap, paperboard, magazines, catalogs and similar glossy paper, paperback books and molded pulp packaging)	96%	97%
Cartons	78%	88%
Polycoated cups	78%	88%

CRPF Permit Program

Performance standards – Capture rates, plastic

Plastic	July 1, 2025 Rate	Jan. 1, 2028 Rate
PET bottles and containers (6 ounces to 2 gallons)	85%	93%
HDPE bottles and containers (6 ounces to 2 gallons)	88%	95%
HDPE and PP tubs & pails (2 to 5 gallons) and PP bottles and containers (6 ounces to 2 gallons)	83%	93%
HDPE and PP flower pots – 4 inches to 2 gallons	70%	89%
HDPE and PP flower pots greater than 2 gallons	85%	92%

CRPF Permit Program

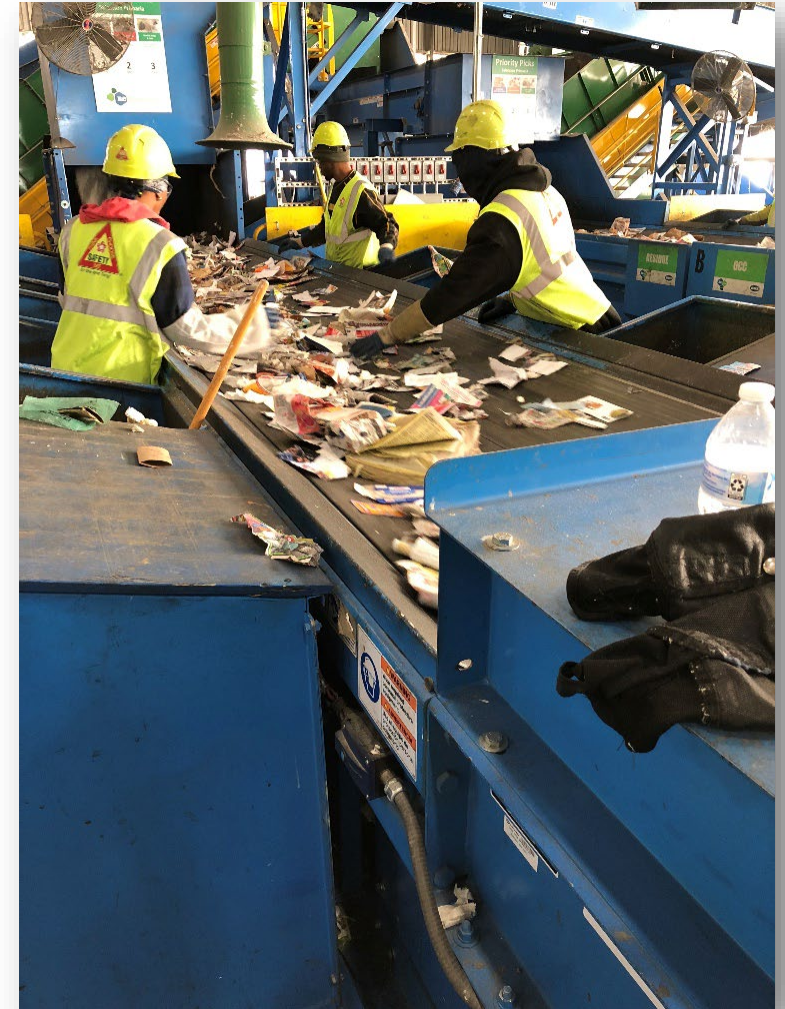
Performance standards – Capture rates, metal

Metal	July 1, 2025 Rate	Jan. 1, 2028 Rate
Accepted aluminum cans (beverage and food)	88%	94%
Deposit and other steel cans accepted at curb	93%	98%
Other scrap metal (ferrous, non-ferrous + mixed metal) accepted at curb	88%	98%

CRPF Permit Program

Performance standards – Capture rates

- **Future changes to capture rates**
 - Capture rates for materials added to the USCL after the EQC's original approval of these rules will be assigned an initial capture rate of 75 percent.
 - All capture rates will be periodically reevaluated but no more frequently than once per year, with reevaluation taking into account data generated from performance standard assessments.

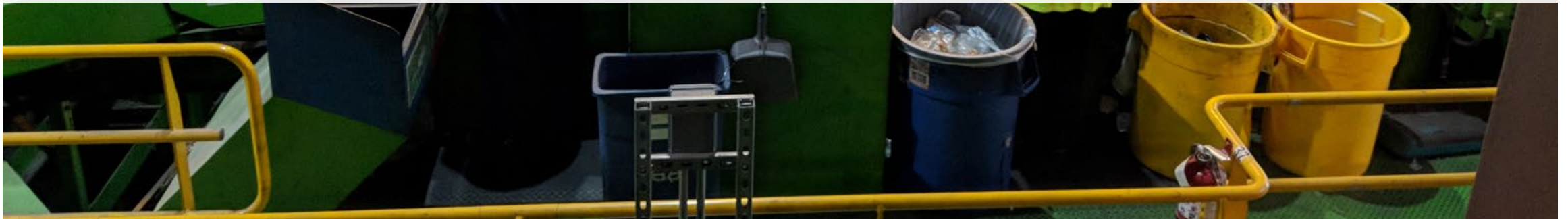


CRPF Permit Program Discussion



Performance standards – Capture rates

- Questions or concerns about the definition of capture rate?
- Thoughts about the phased approach for capture rates?
- Thoughts about the proposed rates for any specific materials?



CRPF Permit Program

Performance standards – Other

- CRPFs must adhere to requirements already existing for other industrial facilities under OAR-340-096, rules focused on environmental and human health protection.



CRPF Permit Program Discussion



Performance standards – Other

- Are there any other specific recommendations that DEQ should consider to improve other proposed performance standards to protect human health and the environment?



CRPF Permit Program

Reporting on outbound contamination

- Processors in their operations plans to DEQ will detail how they plan to continually and accurately report on outbound contamination levels.



CRPF Permit Program Discussion



Reporting on outbound contamination

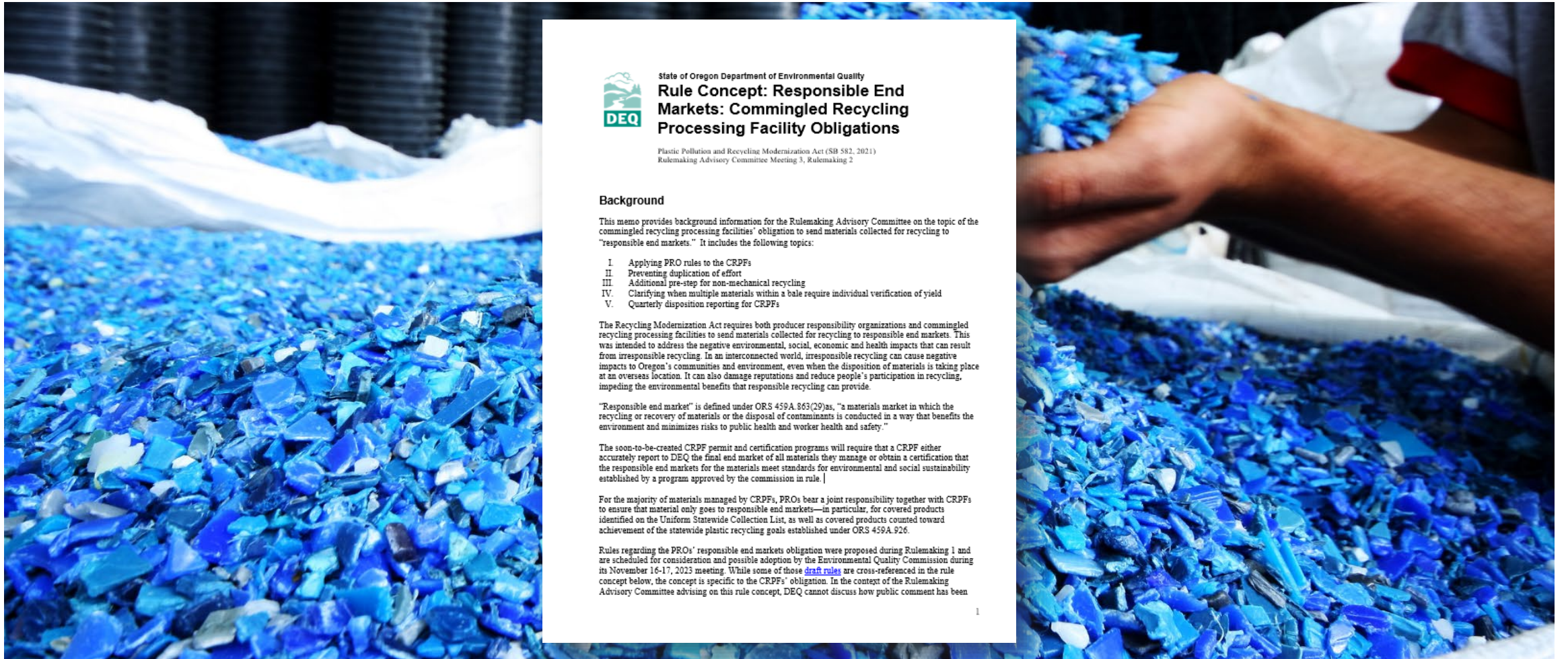
- Are there any specific aspects of this requirement that must be included in administrative rules?



Break



CRPF Responsible End Market Obligations



State of Oregon Department of Environmental Quality
Rule Concept: Responsible End Markets: Commingled Recycling Processing Facility Obligations

Plastic Pollution and Recycling Modernization Act (SB 582, 2021)
Rulemaking Advisory Committee Meeting 3, Rulemaking 2

Background

This memo provides background information for the Rulemaking Advisory Committee on the topic of the commingled recycling processing facilities' obligation to send materials collected for recycling to "responsible end markets." It includes the following topics:

- I. Applying PRO rules to the CRPFs
- II. Preventing duplication of effort
- III. Additional pre-step for non-mechanical recycling
- IV. Clarifying when multiple materials within a bale require individual verification of yield
- V. Quarterly disposition reporting for CRPFs

The Recycling Modernization Act requires both producer responsibility organizations and commingled recycling processing facilities to send materials collected for recycling to responsible end markets. This was intended to address the negative environmental, social, economic and health impacts that can result from irresponsible recycling. In an interconnected world, irresponsible recycling can cause negative impacts to Oregon's communities and environment, even when the disposition of materials is taking place at an overseas location. It can also damage reputations and reduce people's participation in recycling, impeding the environmental benefits that responsible recycling can provide.

"Responsible end market" is defined under ORS 459A.863(2)(d) as, "a materials market in which the recycling or recovery of materials or the disposal of contaminants is conducted in a way that benefits the environment and minimizes risks to public health and worker health and safety."

The soon-to-be-created CRPF permit and certification programs will require that a CRPF either accurately report to DEQ the final end market of all materials they manage or obtain a certification that the responsible end markets for the materials meet standards for environmental and social sustainability established by a program approved by the commission in rule. |

For the majority of materials managed by CRPFs, PROs bear a joint responsibility together with CRPFs to ensure that material only goes to responsible end markets—in particular, for covered products identified on the Uniform Statewide Collection List, as well as covered products counted toward achievement of the statewide plastic recycling goals established under ORS 459A.926.

Rules regarding the PROs' responsible end markets obligation were proposed during Rulemaking 1 and are scheduled for consideration and possible adoption by the Environmental Quality Commission during its November 16-17, 2023 meeting. While some of those [draft rules](#) are cross-referenced in the rule concept below, the concept is specific to the CRPFs' obligation. In the context of the Rulemaking Advisory Committee advising on this rule concept, DEQ cannot discuss how public comment has been

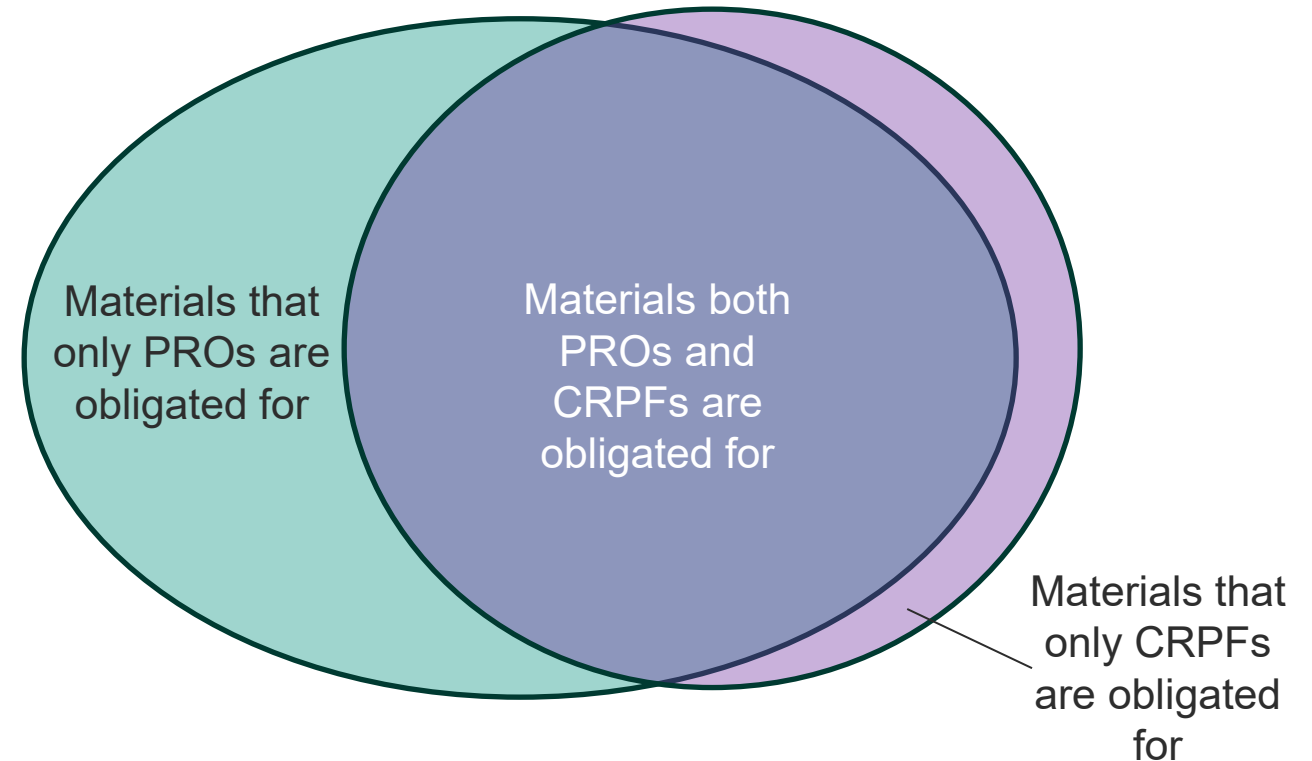
Background on Responsible End Markets

“Responsible End Market” Definition (ORS 459A.863(29)):

“a materials market in which the recycling or recovery of materials or the disposal of contaminants is conducted in a way that benefits the environment and minimizes risks to public health and worker health and safety.”

Background: REM Joint Obligation

- Joint CRPF/PRO obligation for most CRPF-marketed materials
- If obligated, PRO/CRPF has to ensure that the material goes to a responsible end market
- CRPFs must fulfill their obligation through either certification of markets or reporting disposition



Background: Defining “end market”



Glass

user of the recyclate to make a new product.

E.g., bottle maker



Metal

producer of the recyclate.

E.g., re-smelter



Paper

facilities that re-pulp recycled material.

E.g., pulp mill



Plastic for food and beverage packaging and children's products

maker of the next product.



Plastic for all other applications

last handler of the recyclate before sold to a producer.

Background: “Responsible” Standard

To be deemed “responsible,” all entities downstream of a CRPF up through and including the end market must be:

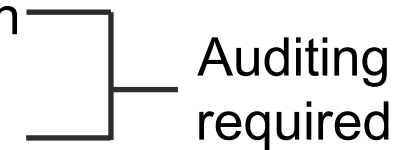
- Compliant
- Transparent
- Environmentally-sound
- Achieves adequate yields

Steps to implement:

1) Self-attestation

2a) 3rd party certification

2b) Verification



Background: Self-Attestations



Appendix G: Draft responsible end markets screening and self-attestation form

Facility Name:			Date:	
Facility Address:				
Role processing Oregon materials (select all that apply): <input type="checkbox"/> Broker <input type="checkbox"/> Recycler <input type="checkbox"/> End Market <input type="checkbox"/> Other:				
Material(s) processed (select all that apply): <input type="checkbox"/> Glass <input type="checkbox"/> Metal <input type="checkbox"/> Paper <input type="checkbox"/> Plastic-food contact/children's <input type="checkbox"/> Plastic:				
Authorized representative:		Representative's phone:		
Representative's position:		Representative's email:		

Self-Attestation Statement: I, _____, declare under penalty of false swearing (Oregon (authorized representative)
 Revised Statute 162.075 and ORS 162.085) that my facility meets Oregon's "responsible" standard described in PR 340-090-0670(2).

Signature: _____ Date: _____
 Printed name: _____

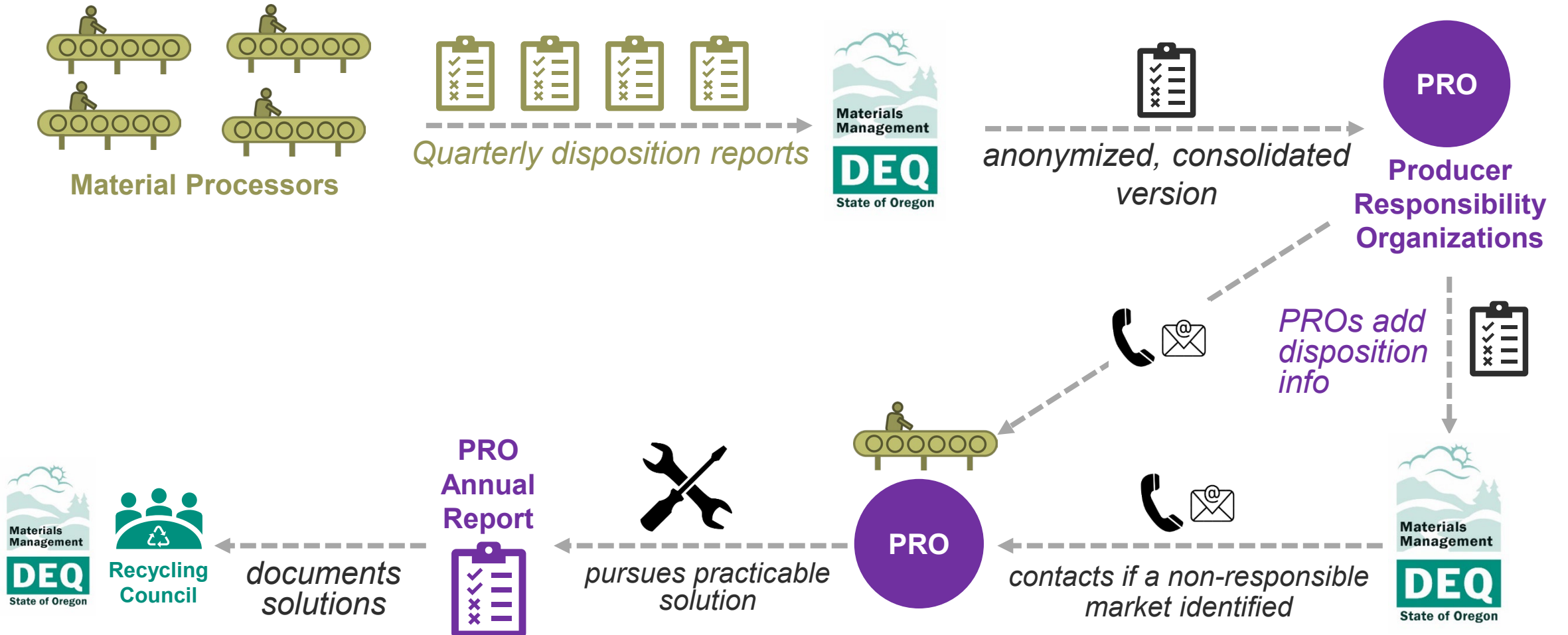
PRO Screening (to be completed by the PRO after receiving the signed self-attestation from the facility):
 Do you have evidence to support the self-attestation? If so, describe the evidence:

Signature: _____ Date: _____

Printed name: _____



Background: Reporting



Questions?



Concept I: Applying PRO rules to CRPFs

Apply the following rules to CRPFs as well as PROs:

- End market definition
- “Responsible” standard
- Self-attestation requirement
- Deadlines for self-attestation (program start)
- Reporting: all certification/verification/attestation documentation submitted as part of quarterly reporting

These rules would apply only to PROs:

- Verification pathway
- Auditing (including random bale tracking)
- Practicability



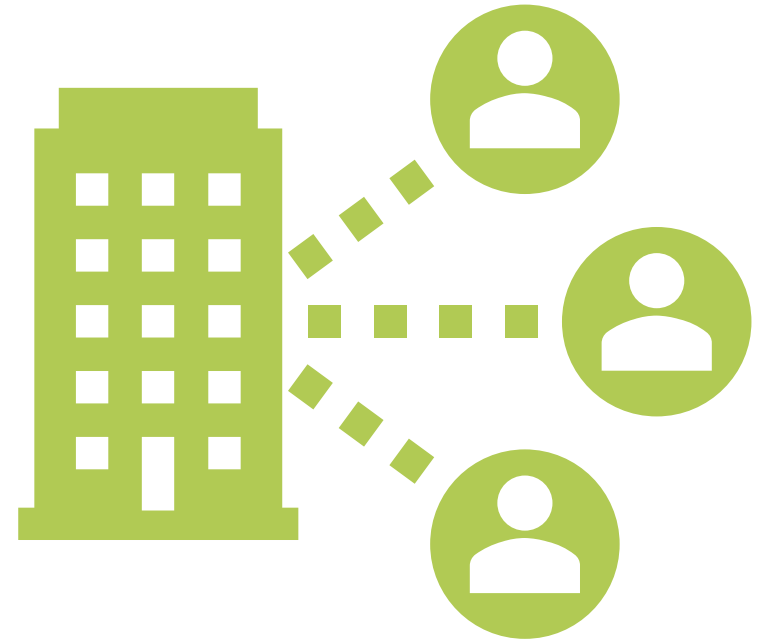
SHARED
RESPONSIBILITY

Concept II: Avoiding Duplication of Effort

For each recycling supply chain entity, only one

- Self attestation
- Verification or certification
- Annual audit
- Non-mechanical recycling pre-check

is needed to comply with the responsible end market obligation.



Concepts I-II: Discussion



1. Will the rule concept enable an appropriate division of labor among CRPFs and MRFs to fulfill the responsible end market joint obligation?
2. Is it reasonable to expect that CRPFs and PROs will coordinate to avoid duplication of effort?



III: Pre-Step for Non-Mechanical Recycling

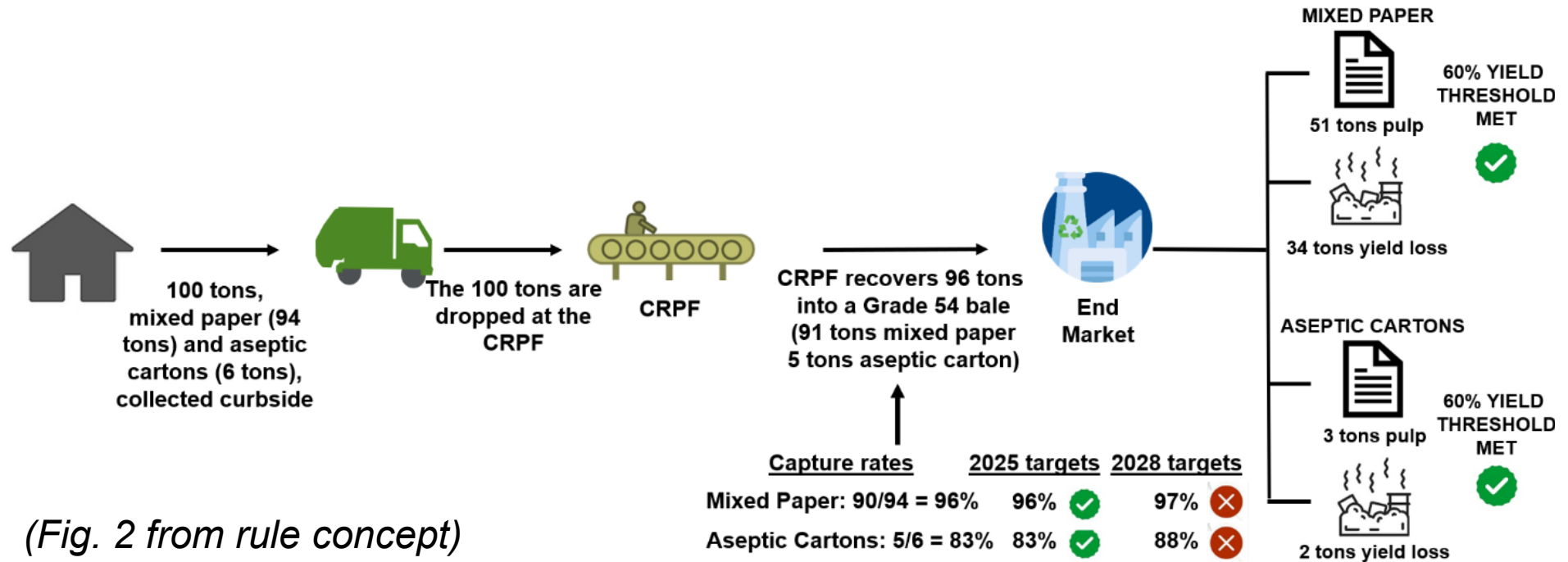
Will apply the highlighted statutory requirements for PROs to CRPFs:

ORS 459A.875(2)(a)(I) (PRO Program Plan Requirements) Ensure that any material that will be marketed for use through a method other than mechanical recycling will be transferred to a responsible end market, including:

- i. A description of how the proposed method will affect the ability of the material to be recycled into feedstock for the manufacture of new products
- ii. A description of how the proposed method will affect the types and amounts of plastic
- iii. A description of any applicable air, water and waste permitting compliance requirements; and
- iv. An analysis of the environmental impacts for the proposed method compared to the environmental impacts of mechanical recycling, incineration and landfill disposal as solid waste.

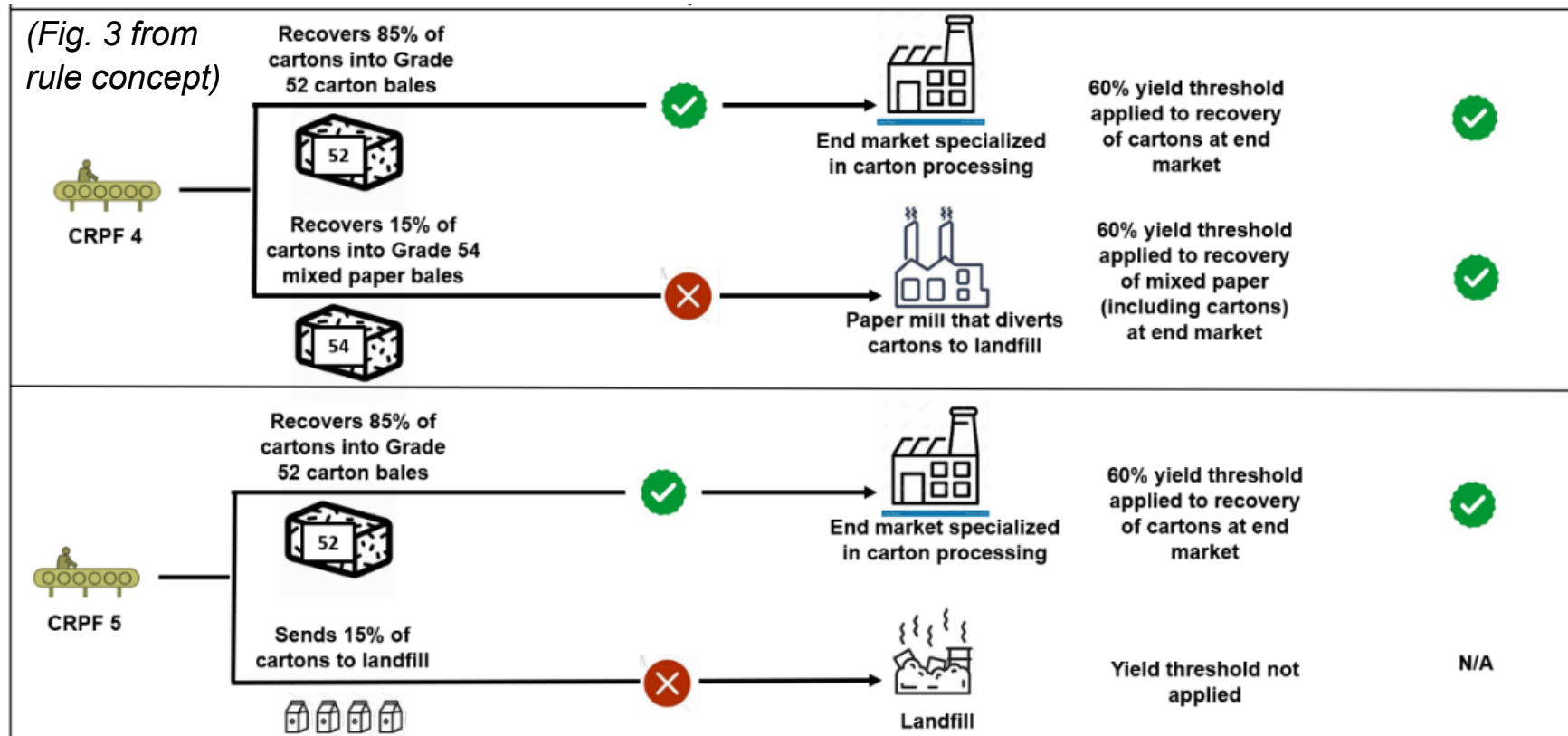
IV: When yield requires verification within a bale

Will require individual verification of yield for multiple materials within a bale only when the materials are being counted by the source CRPF toward meeting capture rates.



(Fig. 2 from rule concept)

IV: When yield requires verification within a bale



These two scenarios are functionally equivalent even though one CRPF (#5) sorts 15% of its aseptic cartons out and sends them to landfill, while the other (#4) sends 15% of its cartons to a paper mill that diverts them to landfill.

Concept IV: Discussion

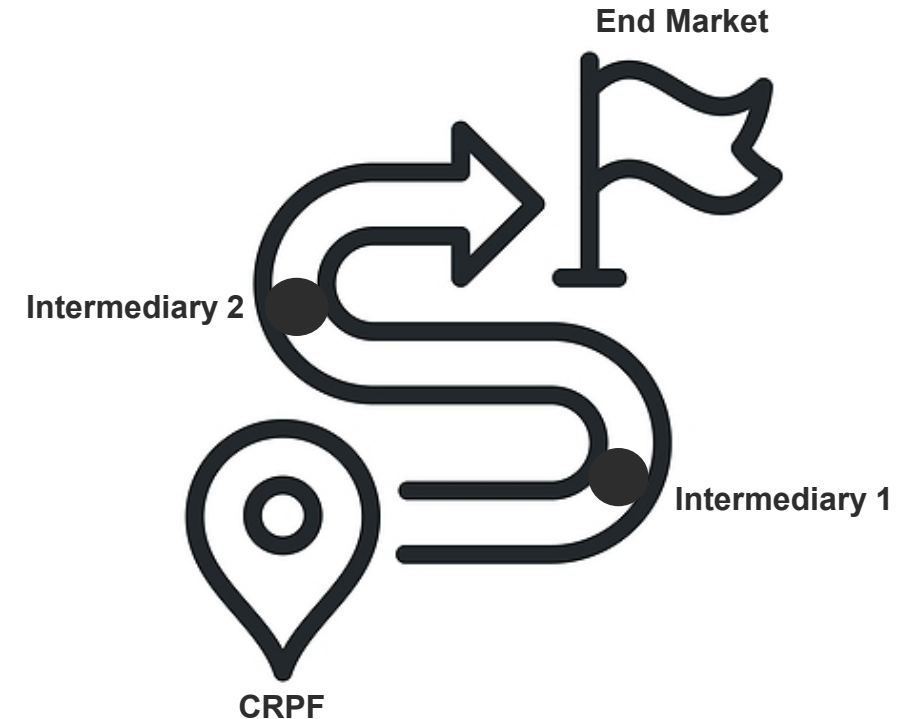


Is the RAC comfortable with an end market that diverts a material collected for recycling in Oregon to landfill being declared “responsible” if the material was not counted toward a capture rate by the source CRPF?



V: Disposition Reporting

1. Reporting calendar:
 - Self attestations due on July 1, 2025 or before sending materials
 - First disposition data for Q3 2025 due on Nov 1
2. What is reported: tons of material received by each downstream entity during a given quarter
 - Unit of reporting: *seeking RAC feedback*
3. Who reports: CRPFs only or CRPFs and first receivers.
seeking RAC feedback
4. Accounting rules:
 - controlled blending when materials mix
 - 1% / 10% de minimis threshold for reporting
5. Tracking method: CRPFs choose and indicate in their operation plans



Concept V: Discussion



1. What should be the material unit of reporting?
 - Most granular = material acceptance list categories
 - Most coarse = bale type
2. Should DEQ allow only CRPFs to report disposition for the materials that they market, or should first receivers be allowed to report on CRPFs' behalf?
3. Should these rules allow for mass balance accounting to be used in some instances? If yes, in which instances, and why?
4. Does the concept for material tracking allow enough flexibility and rigor for oversight?



Living Wage and Supportive Benefits



State of Oregon Department of Environmental Quality

Rule Concept: Living wage and supportive benefits (updated)

Plastic Pollution and Recycling Modernization Act (SB 582, 2021)
Rulemaking Advisory Committee Meeting 3, Rulemaking 2

Oct. 16, 2023

Background

This updated rule concept provides background information and revised proposed approach for living wages and supportive benefits provided to workers at commingled recycling processing facilities. The initial draft [rule concept](#) was presented at the Rulemaking Advisory Committee meeting on July 13, 2023.

Effective Jan. 1, 2027, ORS 459A.905(2)(c) prohibits local governments from sending their commingled recyclables to processing facilities unless the “processor provides workers at the facility with a living wage and supportive benefits, as defined by rule by the Environmental Quality Commission”. This updated draft rule concept proposes definitions for the terms “workers at the facility”, “living wage” and “supportive benefits” and proposes what data sources or other information may be used to determine the parameters of these terms.

DEQ is requesting input from members of the Rulemaking Advisory Committee on the identified options, including any information that would support alternatives or other definitions.

What changed?

DEQ is proposing updates to some elements of the draft rule concept. Those updates, made in response to input received at and after the July 2023 committee meeting, are:

- Changes to the definition of “workers” to focus on the tasks and types of work performed.

Living Wage and Supportive Benefits: Updates

Changes made since July (RAC meeting 1)

Proposed definition of “worker”

Calculated household composition (to inform lookup in MIT Living Wage Calculator)

Modified types and scope of “supportive benefits”



No changes from past proposal

Proposed definition for “living wage”

MIT Living Wage Calculator as the proposed primary data source for determining living wage

Using a commingled recycling processing facility’s physical address information to apply the county-based location parameter for the MIT Living Wage Calculator inputs



Living Wage and Supportive Benefits: Wage comparison

	Hourly living wage		
	1 worker, 0 dependents	Calculated per updated proposal	2 workers, 2 dependents
Oregon - Washington, Multnomah and Clackamas	\$21.85	\$25.91	\$28.09
Oregon - Marion	\$17.56	\$22.28	\$24.82
Oregon - Lane	\$17.46	\$22.94	\$25.89
Oregon - Klamath	\$15.75	\$21.19	\$24.12
California – Humboldt	\$16.51	\$22.52	\$25.76
Washington - Clark	\$20.94	\$24.87	\$26.98

Living Wage and Supportive Benefits



Health insurance



Disability insurance

- Short-term
- Long-term



Life insurance



Paid time off

- Sick leave
- Vacation/discretionary leave
- Holiday pay



Training and career development opportunities

Supportive Benefits

Living Wage and Supportive Benefits: Discussion



1. Are there alternative **definitions** for “worker”, “living wage” or “supportive benefits” being used by government entities or private industry that DEQ should consider for this proposed rule concept?
2. Are there standards, requirements or best practices in use by government entities or private industry that DEQ should evaluate when considering the **scope and types** of “supportive benefits” to be defined in this proposed rule concept?

Questions?



Public Input Period

To provide input, message
Hosts and Panelists
in the chat.

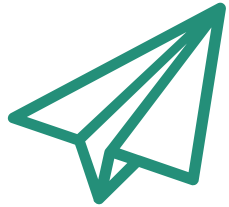
Input can also be emailed to
recycling.2024@deq.oregon.gov

Next steps



- Connect with your networks
- Email any questions or feedback to:
recycling.2024@deq.oregon.gov
- Enjoy your winter holidays!
- Next RAC meeting is January 31, 2024

More info



Sign-up for GovDelivery notifications

https://public.govdelivery.com/accounts/ORDEQ/subscriber/new?topic_id=ORDEQ_633



Recycling 2024 Webpage:

<https://www.oregon.gov/deq/rulemaking/Pages/recycling2024.aspx>

Title VI and alternative formats

DEQ does not discriminate on the basis of race, color, national origin, disability, age or sex in administration of its programs or activities.

Visit DEQ's [Civil Rights and Environmental Justice page](#).

[Español](#) | [한국어](#) | [繁體中文](#) | [Русский](#) | [Tiếng Việt](#) | [العربية](#)
Contact: 800-452-4011 | TTY: 711 | deqinfo@deq.state.or.us