



Oregon Department of Environmental Quality

# Rule Concept: Commingled Recycling Processing Facility Fees Contamination Management Fee

Plastic Pollution and Recycling Modernization Act (SB 582, 2021)  
Rulemaking Advisory Committee Meeting 4, Rulemaking 2

Jan. 17, 2024

## Background

This memo provides background information and draft rule concepts associated with the Contamination Management Fee (ORS 459A.920), one of two funding mechanisms under the Recycling Modernization Act meant solely for commingled recycling processing facilities. See Appendix 1 for an overview of how these kinds of facilities will be funded when the Act is fully implemented.

Under ORS 459A.920 (1), the Environmental Quality Commission shall by rule adopt and periodically revise a contamination management fee to be paid by producer responsibility organizations to commingled recycling processing facilities. This fee will compensate the facilities for the costs of removing and disposing covered products that are contaminants.

## Rule concepts for discussion at Jan. 31, 2024 RAC meeting

Four rule concepts related to the Contamination Management Fee follow:

- I. [Definitions](#)
- II. [Establishing the fee](#)
- III. [Invoicing](#)
- IV. [Ineligible material and appropriate fee charging](#)

### I. Definitions

#### Background

ORS 459A.863(3) defines 'Commingled recycling processing facility' as follows:

(3)(a) "Commingled recycling processing facility" means a facility that:

- (A) Receives source separated commingled recyclable materials that are collected commingled from a collection program providing the opportunity to recycle; and
- (B) Separates the recyclable materials described in subparagraph (A) of this paragraph into marketable commodities or streams of materials that are intended for use or further processing by others.

(b) "Commingled recycling processing facility" does not include:

- (A) Scrap metal recycling facilities;
- (B) Scrap automotive or appliance recycling facilities;

#### Translation or other formats

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- (C) Full-service redemption centers or dealer redemption centers, as those terms are defined in ORS 459A.700, and recycling facilities owned and operated by a distributor cooperative established under ORS 459A.718;
- (D) Recycling facilities handling covered electronic devices, as defined in ORS 459A.305;
- (E) Recycling processing facilities that process only noncommingled, source separated recyclable material from commercial entities;
- (F) Recycling processing facilities that recover commingled recyclable material primarily from the construction and demolition debris waste stream;
  - (G) Recycling depots;
  - (H) Recycling reload facilities; or
- (I) Limited sort facilities, as defined by rule by the Environmental Quality Commission.

### **Rule concept for discussion**

For the purposes of this rule concept, DEQ proposes the following definitions:

Eligible material includes:

- Any covered product, as defined under ORS 459A.863(6)(a), that is not listed for collection on the Uniform Statewide Collection List, per ORS 459A.914(1)(a), but which shows up in the inbound stream at a commingled recycling processing facility; and
- Any covered product that is included in the Uniform Statewide Collection List but which was improperly prepared by system users to the point the material is difficult for the processing facility to handle or market.

Ineligible material includes:

- Any item that is listed on the Uniform Statewide Collection List and properly prepared for recycling;
- Any item that is not a covered product as defined by ORS 459A.863(6)(b);
- Any material that originated outside of Oregon; and
- Any material originating in a mixed waste processing system that has been transferred to a co-located commingled recycling processing facility for the purposes of processing.

## **II. Establishing the fee**

### **Background**

Per ORS 459A.920:

- (1) *The Environmental Quality Commission shall by rule adopt and periodically revise a contamination management fee to be paid by producer responsibility organizations to commingled recycling processing facilities to compensate the facilities for the costs of removing and disposing covered products that are contaminant. The amount of the fee shall be based on the result of the study conducted under subsection (2) of this section.*
- (2) *The Department of Environmental Quality shall contract with an independent organization to conduct the study under this subsection. The study must:*
  - (a) *Estimate the cost to commingled recycling processing facilities of removing and disposing of covered products that are contaminants, reported as the cost per ton of covered products; and*
  - (b) *Estimate the costs to commingled recycling processing facilities of removing and disposing of all contaminants, reported as the cost per ton of all contaminants.*

To satisfy the requirement of ORS 459A.920(2). DEQ contracted with Crowe LLP. Crowe's analysis is nearing completion; the draft final report, which informs this and several other rule concepts, can be viewed on the [Commingled Recycling Processing Facilities project web page](#).

### **Rule concept for discussion**

As determined by the joint Processor Commodity Risk Fee and Contamination Management Fee study undertaken by Crowe LLP, the Contamination Management Fee to be paid by producer responsibility organizations to commingled recycling processing facilities to compensate the facilities for the costs of removing and disposing of covered products that are contaminants shall be paid as follows:

- At a rate of \$374 per ton for the 2025 and 2026 program years (July 1, 2025 – December 31, 2026);
- At a rate of \$476 per ton for the 2027 program year (January 1, 2027 – December 31, 2027); and
- At a rate of \$457 per ton for the 2028 program year (January 1, 2028 – December 31, 2028) and all years thereafter (until updated by rule)

These values may change as Crowe's report undergoes final review in the coming weeks. The per-ton rates can only be updated through rule following subsequent studies to determine the cost to commingled recycling processing facilities for removing and disposing of covered products that are contaminants.

For the purposes of payment of the Contamination Management Fee, the per-ton fee established by the study will be multiplied against the eligible outbound residual tonnage coming from a commingled recycling processing facility handling Uniform Statewide Collection List material. Invoicing of the per-ton Contamination Management Fee is detailed in section III of this rule concept.

Per ORS 459A.920(5), DEQ shall review the per-ton contamination management fee at least once every five years, but no more frequently than once per year.

## **III. Invoicing**

### **Background**

Per ORS 459A.920(2)(a):

*Provide that payment of the fee may not be required more frequently than once per month and must be paid within 45 days of a request for payment;*

### **Rule concept for discussion**

Only commingled recycling processing facilities that meet the requirements under ORS 459A.905(2)(a)(A) or (B) are eligible to invoice for and receive Contamination Management Fee funding.

In addition to the requirements under ORS 459A.920(2)(a), the Contamination Management Fee would be assessed on the tons of covered product deemed as contamination that is sent to disposal by a commingled recycling processing facility.

Contamination Management Fee funding would be assessed on tons of covered product sent to disposal that was collected by a commingled recycling collection program in Oregon. Material originating outside Oregon and material that is not a covered product, or which is collected by a non-RMA related collection program, would not be eligible for Contamination Management Fee funding.

Invoicing approach:

**TOTAL TONS RECEIVED BY [CRPF NAME HERE] FOR [MONTH AND YEAR]:**  
**[figure] tons**

- A. Eligible tons received and processed from in-state, local government collection programs: **[figure] tons**
- B. Similarly eligible tons acquired from other CRPFs: **[figure] tons**
  - **[figure] tons from [CRPF name]**
  - **[figure] tons from [CRPF name]**

**TOTAL ELIGIBLE TONS PROCESSED = A tons + B tons**

- C. Ineligible tons of out-of-state-generated commingled material processed: **[figure] tons**
- D. Combined ineligible tons of non-RMA-program and non-commingled material processed: **[figure] tons**

**TOTAL INELIGIBLE TONS PROCESSED = C tons + D tons**

[Eligible tons received and processed from local government collection programs figure (A tons)] + [Eligible tons acquired from other in-state facilities figure (B tons)] + [Ineligible tons of material processed figure (C tons + D tons)] = **total tons figure**

- Percentage of total that is eligible = (Total eligible tons processed) / (Total commingled tons processed) = %
- Percentage of contamination that is covered products (percentage determined by the 2023 Inbound Commingled Recycling Study) = **43.7%** (percentage to be updated with each undertaking of the study to determine the Contamination Management Fee)
- Composite percentage of disposal that is eligible (in-state covered products) = [Percentage of total that is eligible] x 0.437% = %

**TOTAL TONS OF RESIDUALS SENT TO DISPOSAL: E tons**

**(Total tons of residuals sent to disposal for [month, year], E tons)\* x (composite percentage of eligible tons for [month, year]\* = [figure] invoiceable tons**

\*figures may/will change from month to month

**Invoiceable tons x Contamination Management Fee (per-ton fee) = \$[figure]**

The final figure is what the commingled recycling processing facility would invoice the Producer Responsibility Organization for, and no more frequently than once per month.

Additionally, a commingled recycling processing facility can include in its CMF invoice all tons of Oregon-generated covered product contamination (material not on the USCL) processed and marketed, so long as the covered product is desired by the responsible end market and all other standards for reporting and responsible end markets are met. Tonnage may only be counted if the non-USCL material is baled separate of other USCL material (e.g., plastic film bales). The commingled recycling processing facility would receive full per-ton funding for these tons.

For the invoicing of processed and marketed covered product contamination, the following would be added to the invoicing formula above:

#### **TOTAL TONS OF COVERED PRODUCT CONTAMINATION SENT TO MARKET**

$$\text{tons} \times (\text{per-ton fee}) = \$[\text{figure}]$$

Commingled recycling processing facilities cannot invoice for any contamination processed and marketed to a responsible end market that is not a covered product. All tons of covered product contamination marketed must be reported separate from the invoiceable tons figure.

#### **Discussion prompts:**

- Are there any questions regarding the invoicing approach to be used with the CMF?
- Any questions regarding the handling of covered product contamination?

### **IV. Ineligible material and appropriate fee charging**

#### **Background**

Per ORS 459A.920(2)(b):

*Provide that the fee may not be based on commingled recycling originating outside of Oregon;*

and, Per ORS 459A.920(2)(c):

*Establish a review process to ensure that the fee is appropriately charged.*

#### **Rule concept for discussion:**

To meet the requirement under (2)(b), the invoicing approach detailed under rule concept III requires commingled recycling processing facilities to list “ineligible tons of out-of-state-generated material processed” on its invoice to the PRO(s). These tons will also be reported to DEQ as part of the commingled recycling processing facility’s monthly reporting requirements.

To meet the requirements of (2)(b) and (2)(c), commingled recycling processing facilities will provide DEQ monthly transactional data associated with each inbound load of commingled recyclables delivered to the processing facility.

Commingled recycling processing facilities will report monthly to DEQ the invoiceable outbound residual tonnage figure. Processing facilities will also report the total tons of covered product

contamination sent to market figure separate from the invoiceable outbound residual tonnage figure. These two figures cannot be reported in a combined manner.

DEQ, the PRO, or a combination of both, will conduct on-site and off-site assessments of facility-specific data, to ensure data is accurate and that a processing facility is not invoicing for ineligible tons.

**Discussion prompts:**

- Should the rule require any additional data, or additional ongoing requirements to ensure that the fee is appropriately charged?

**Non-discrimination statement**

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