

Rulemaking Advisory Committee Meeting #7

Plastic Pollution and Recycling Modernization Act

April 3, 2024
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.	Updates from previous meetings
9:40 a.m.	Rule Concept: Producer pre-registration
9:55 a.m.	Rule Concept: "Compendium" of Additional Rule Concepts
10:20 a.m.	BREAK
10:40 a.m.	Rule Concepts and Discussion: Local Government Compensation for Contamination Reduction
11:15 a.m.	Public Input Period
11:30 a.m.	Rule Concepts: CRPF permit fees and certification for out-of-state facilities*
12:30 p.m.	Meeting Adjourns*

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

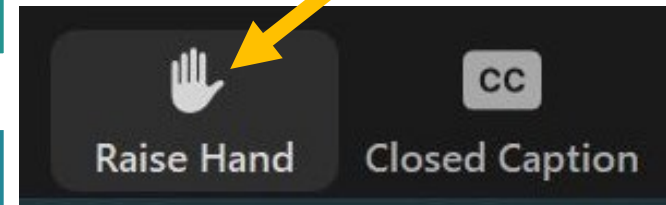
Meeting Tips

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



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



Alex Bertolucci, meeting facilitator



Nicole Portley, lead for responsible end market obligations and exemptions



Arianne Sperry, program implementation lead



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

Introductions- RAC

Name	Affiliation	Representing
Aimee Thompson	Thompson Sanitary Service	Service Provider
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 Paul	Rim Rock Recycling	Community
Chris Drier	Waste Management	Commingled Recycling Processing Facility
Sydney Harris	Upstream	Environmental
Tracey Reed	Rogue Basin Partnership	Community
Warren Johnson	Metro	Local Government
Will Posegate	Garten Services Inc.	Commingled Recycling Processing Facility

Update: Exemption for Non-OTR Recycling

Producers can claim an exemption for the proportion of their material that:

- (A) Is collected through a recycling collection service not provided under the opportunity to recycle;
- (B) Does not undergo separation from other materials at a commingled recycling processing facility; and
- (C) Is recycled at a responsible end market.



Exemption for Non-OTR Recycling

Collection services not provided under the opportunity to recycle include but are not limited to the following.

- Commercial generators that send materials directly to end markets, with collection exempt from OTR per ORS 459A.075.
- Commercial collection points that accept materials from consumers and send them directly to end markets (and that are not used for LG compliance with OTR).
- Collection of materials from residential generators that sends materials directly to end markets and is not used for LG compliance with OTR.



Exemption for Non-OTR Recycling

- Separation (at a CRPF) encompasses separation of two or more commingled materials and removal of contamination from a single material.
- PRO verification or 3rd party certification is required to prove that the material went to a responsible end market.
- Material collected at a collection point counted toward the PRO convenience standard or through a collection counted toward alternative compliance cannot be claimed for the exemption.



Questions?



Update: Life cycle eval plastic weightings

	IMPACT	SERIOUSNESS WEIGHTING	
(1)	Climate change	14.41	
(2)	Water use	10.88	
(3)	Land use	10.16	
(4)	Resources use, fossils	8.36	
(5)	Resource use, minerals and metals	7.58	
(6)	Ionizing radiation, human health	6.47	
(7)	Ozone depletion	6.33	
(8)	Particulate matter	6.20	
(9)	Plastic physical impact on aquatic biota	5.88	← The two plastic indicators added together = 8.49, or #4
(10)	Acidification	5.61	
(11)	Photochemical ozone formation, human health	5.38	
(12)	Eutrophication, freshwater	3.55	
(13)	Eutrophication, terrestrial	3.30	
(14)	Eutrophication, marine	3.29	
(15)	Plastic – other impacts	2.61	← Proposed weighting #1 for plastic ← Proposed (placeholder) weighting #2 for plastic

Update: Life cycle eval “reusable” definition

- Updated definition of “reusable packaging product”
 - A “reusable packaging product” is
 - a) designed to be recirculated multiple times for the same or similar purpose in its original format
 - b) durable
 - c) **supported with adequate commercial or publicly-owned infrastructure to enable the highest/best reuse** ~~owned by producers or a third party and returned to producers or a third party after each use, and~~
 - d) actually reused.

Questions?



Update: CMF and PCRf



Update: CMF and PCRf

- Handling of covered product contamination under the CMF
 - Multiply total tons of glass processed and marketed by .75 to determine eligible tons for the covered product contamination payment.
 - Multiply total tons of non-USCL covered product plastic material processed and marketed by .80 to determine eligible tons for the covered product contamination payment.
 - Covered film plastic processed and marketed to receive 100% of the CMF.



Update: CMF and PCRf



Program plan years	Proposed CMF	A decrease from previously proposed
2025 and 2026	\$341/ton	\$347/ton
2027	\$432/ton	\$476/ton
2028	\$418/ton	\$457/ton

Update: CMF and PCRf

Processor Commodity Risk Fee
related to the statewide, per-ton average eligible processing cost

Program plan years	Proposed PCRf
2025 and 2026	\$200/ton
2027	\$286/ton
2028	\$245/ton

Each of the updated PCRf fee rates decreased by \$1 from the 1/31 rates



Update: CMF and PCRf



- Covered product contamination makes up 46.7% of inbound contamination in commingled recycling stream, up from 43.7%.
- Cardboard – 49.1% to 50%
- Mixed paper – 32.4% to 33%
- PET – 1% to 2.1%
- HDPE natural – 0.7% to 1.5%
- HDPE color – 1% to 2%
- Mixed plastic – 0.6% to 1.3%
- Tin/steel cans remained the same at 1.4%. Aluminum also remained at 0.8%
- ACV adjustment factor – 5.39% to 7.19%

Rule Concept: Producer Pre-Registration



Oregon Department of Environmental Quality

Producer Pre-Registration

Plastic Pollution and Recycling Modernization Act (SB 582, 2021)

Rulemaking Advisory Committee Meeting 7, Rulemaking 2

March 26, 2024

Background

Producers that sell, offer for sale or distribute in or into this state covered products on or after July 1, 2025 are required to be a member of a producer responsibility organization per 2021 c.681 §60 and ORS 459A.869. As such, an obligated producer is required to join and pay fees to a producer responsibility organization on July 1, 2025, the Act's start date.

It is arguably in the interest of all producers that there be broad producer engagement with the PRO prior to the start date. Specifically, there are several benefits if producers provide 2024 supply data to the PRO before July of the following year.

- PROs are required as part of program plan submissions to demonstrate that membership fees collected will provide adequate revenue to fund all PRO expenses per ORS 459A.884(1). This will be particularly challenging at the start of the program when there are many PRO obligations with a high degree of potential cost variability, and considerable uncertainty related to total producer supply volume.
- Without advance market data from most producers, initial fees will likely need to be set higher to provide a cushion to account for uncertainties in supply and in cost.
- More accurate supply data would reduce contingency fee amounts required to manage a fluctuation in potential supply volume.

Rule Concept: Producer Pre-Registration

DEQ proposes a rule that would require a producer intending to sell, offer for sale or distribute covered products in or into the state on or after July 1, 2025 to pre-register with and submit 2024 supply data to a producer responsibility organization no later than March 31, 2025.

This rule does not require producers to pay fees to a PRO prior to the start date, nor does it prevent producers from definitively registering with a producer responsibility organization and beginning to pay member fees on or after July 1, 2025.

Non-discrimination statement

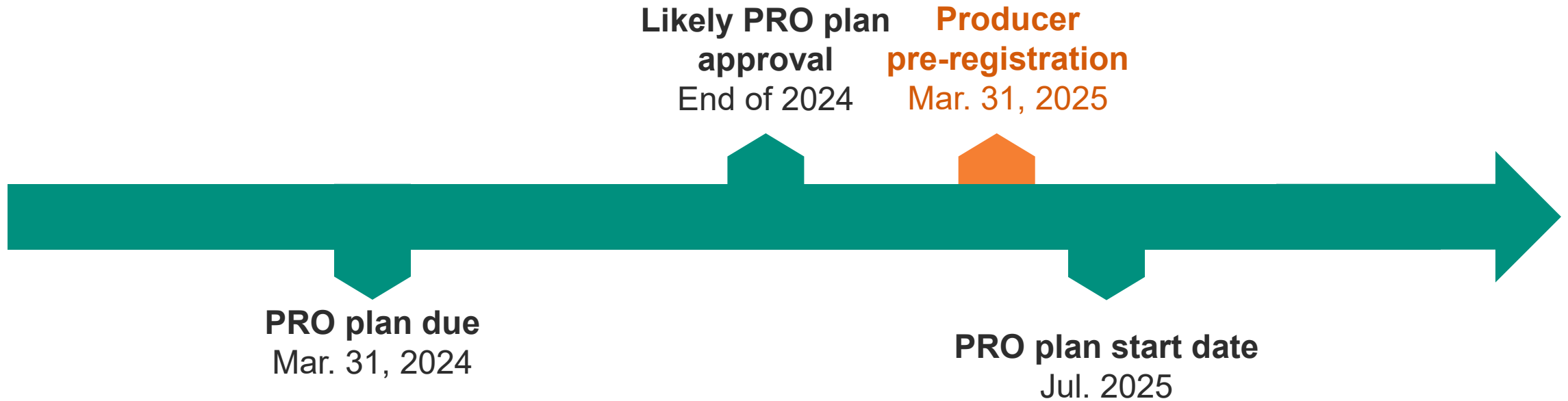
DEQ does not discriminate on the basis of race, color, national origin, disability, age or sex in administration of its programs or activities. Visit DEQ's [Civil Rights and Environmental Justice page](#).

Rule Concept: Producer Pre-Registration



- More supply in PRO membership = lower fees per ton of supply
- Higher system costs = higher fees per ton of supply

Rule Concept: Producer Pre-Registration



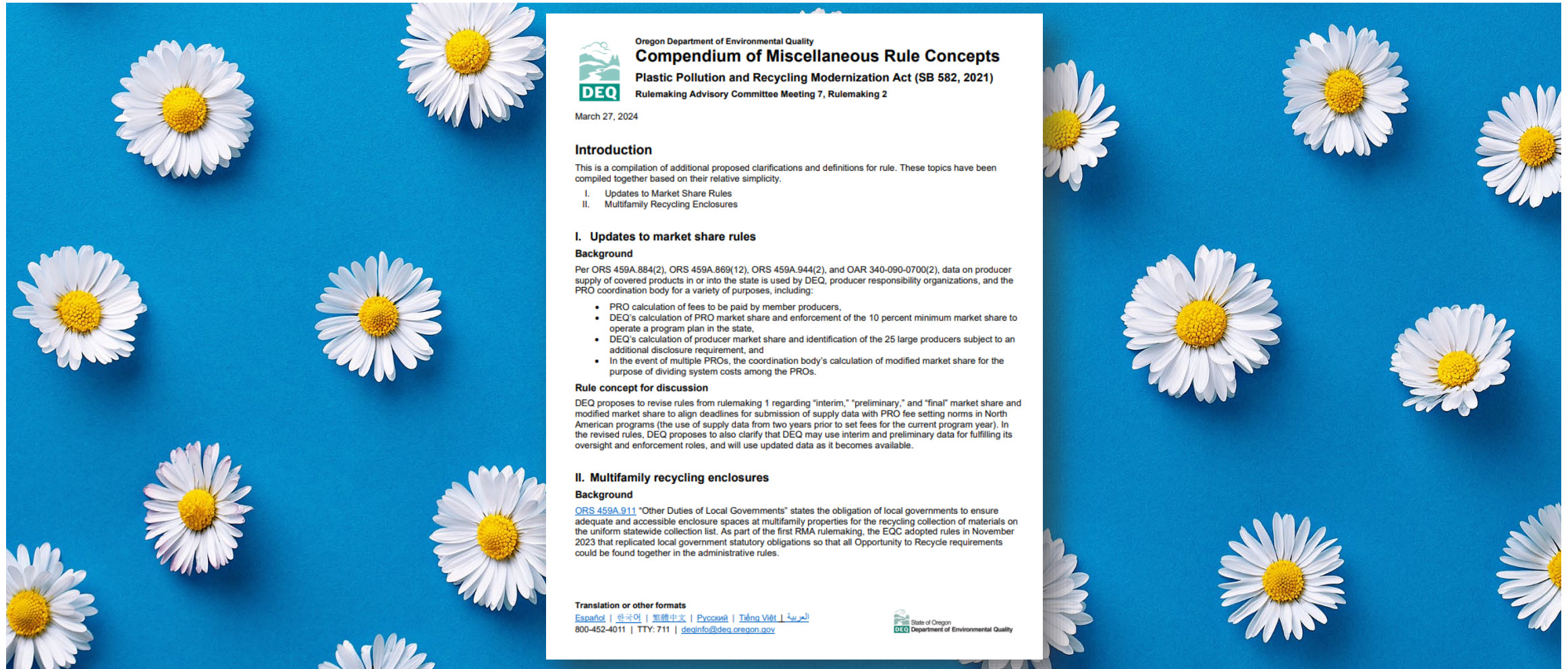
Rule Concept: Producer Pre-Registration

- Pre-registration only – **does not** prevent a producer from joining a PRO and paying fees for the July 1, 2025, statutory deadline.
- This requirement involves pre-registering and submitting data only, **not** paying fees before the start date.

Questions?



Compendium of Misc. Rule Concepts





Oregon Department of Environmental Quality
Compendium of Miscellaneous Rule Concepts
Plastic Pollution and Recycling Modernization Act (SB 582, 2021)
Rulemaking Advisory Committee Meeting 7, Rulemaking 2

March 27, 2024

Introduction

This is a compilation of additional proposed clarifications and definitions for rule. These topics have been compiled together based on their relative simplicity.

- Updates to Market Share Rules
- Multifamily Recycling Enclosures

I. Updates to market share rules

Background

Per ORS 459A.884(2), ORS 459A.869(12), ORS 459A.944(2), and OAR 340-090-0700(2), data on producer supply of covered products in or into the state is used by DEQ, producer responsibility organizations, and the PRO coordination body for a variety of purposes, including:

- PRO calculation of fees to be paid by member producers,
- DEQ's calculation of PRO market share and enforcement of the 10 percent minimum market share to operate a program plan in the state,
- DEQ's calculation of producer market share and identification of the 25 large producers subject to an additional disclosure requirement, and
- In the event of multiple PROs, the coordination body's calculation of modified market share for the purpose of dividing system costs among the PROs.

Rule concept for discussion

DEQ proposes to revise rules from rulemaking 1 regarding "interim," "preliminary," and "final" market share and modified market share to align deadlines for submission of supply data with PRO fee setting norms in North American programs (the use of supply data from two years prior to set fees for the current program year). In the revised rules, DEQ proposes to also clarify that DEQ may use interim and preliminary data for fulfilling its oversight and enforcement roles, and will use updated data as it becomes available.

II. Multifamily recycling enclosures

Background

[ORS 459A.911](#) "Other Duties of Local Governments" states the obligation of local governments to ensure adequate and accessible enclosure spaces at multifamily properties for the recycling collection of materials on the uniform statewide collection list. As part of the first RMA rulemaking, the EQC adopted rules in November 2023 that replicated local government statutory obligations so that all Opportunity to Recycle requirements could be found together in the administrative rules.

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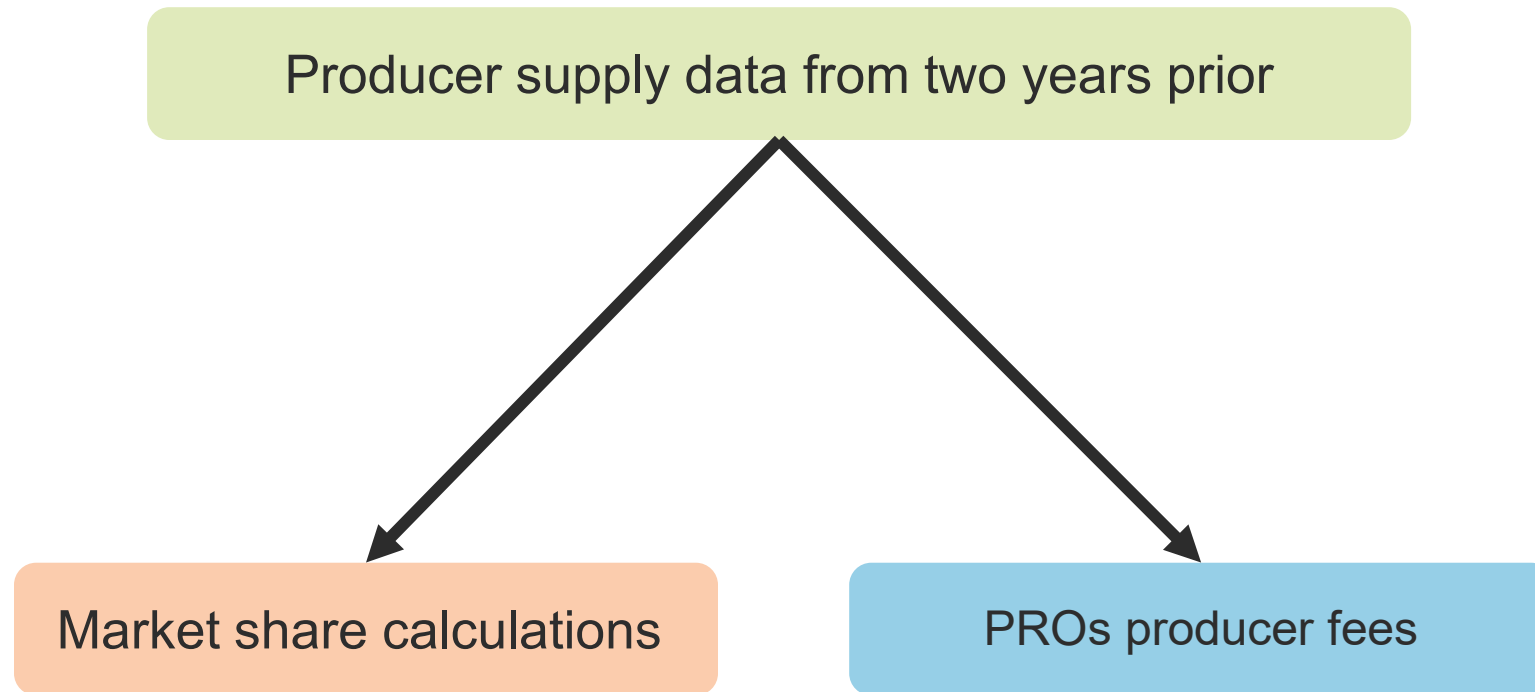


Concept I: Updates to Market Share Rules

Reminders— three market share calculations are to be regularly calculated and updated using producer supply data as the input.

Market share calculations	Regulatory purposes
1. Producer market share	For determining large producers
2. PRO market share	For applying 10% minimum to operate in the state
3. PRO modified market share	For apportioning system costs among multiple PROs

Concept I: Updates to Market Share Rules

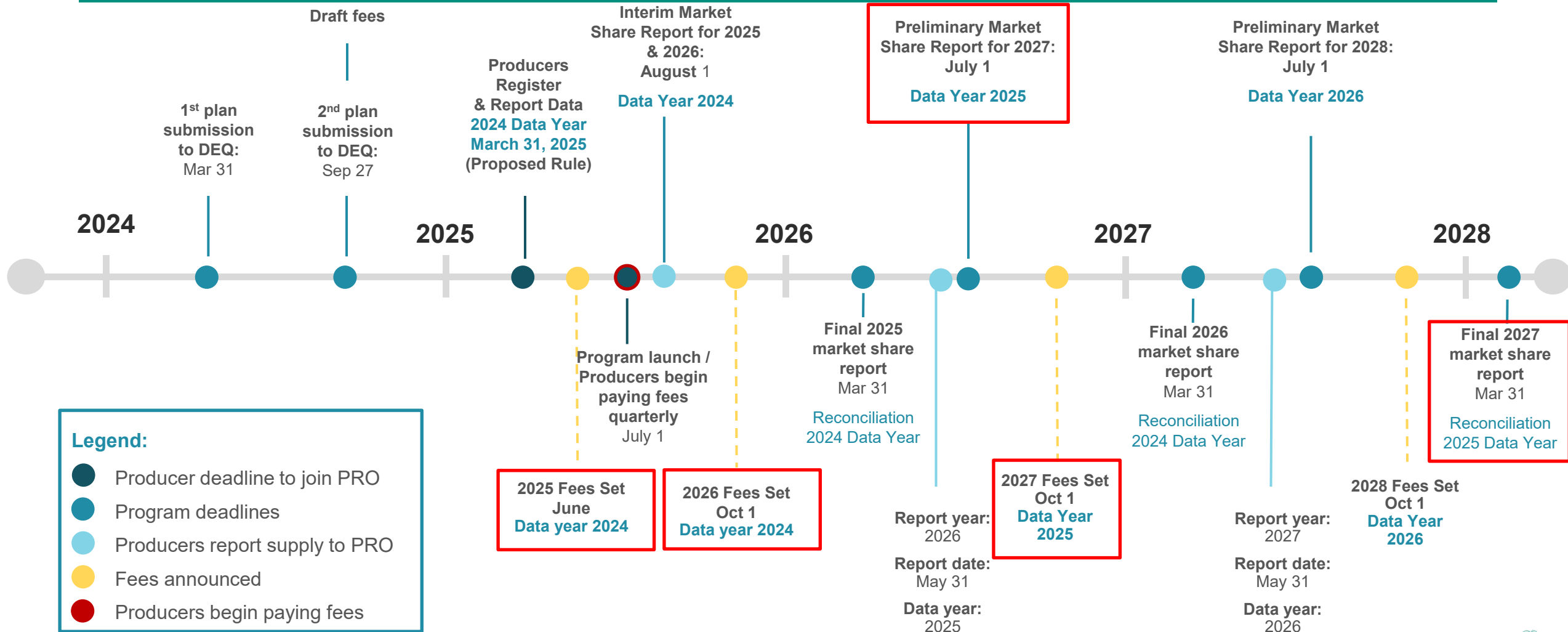


Concept I: Updates to Market Share Rules

The intent of revisions to rulemaking 1 market share rules – have PRO(s) and DEQ on the same page in terms of:

- the calendar for preliminary and final market share calculations
- purpose of preliminary and final calculations
- standardize the data year that is to be used for setting fees in a given program year

Market Share Reporting Timeline



Concept II: Multifamily Recycling Enclosures

Providing recycling service at multifamily properties:

- Adequate service
- Adequate physical space and access for vehicles
- Accessible containers



Concept II: Multifamily Recycling Enclosures

Proposal to amend existing rule:

- Remove effective date
- Local governments develop implementation plan with approach to accomplish statutory requirements



Questions / Discussion?



BREAK



LG compensation for contamination reduction programming



Two types of contamination-related funding

Periodic evaluation of material quality and contamination that occurs at a location other than a CRPF

ORS 459A.890(3)

Contamination reduction programming for residential and commercial customers, capped at \$3/capita/year

ORS 459A.890(4)

I. Distinguish between types of contamination funding

Funding for contamination reduction programming

- Establishing and implementing a contamination reduction program (includes stating how periodic evaluation will occur)
- Subject to the \$3/capita/year cap

Funding for periodic evaluation of collected material

- Evaluating collected material quality and contamination at a location other than a CRPF
- Separate funding source; not included within \$3/capita/year cap

II. Contamination reduction programming compensation

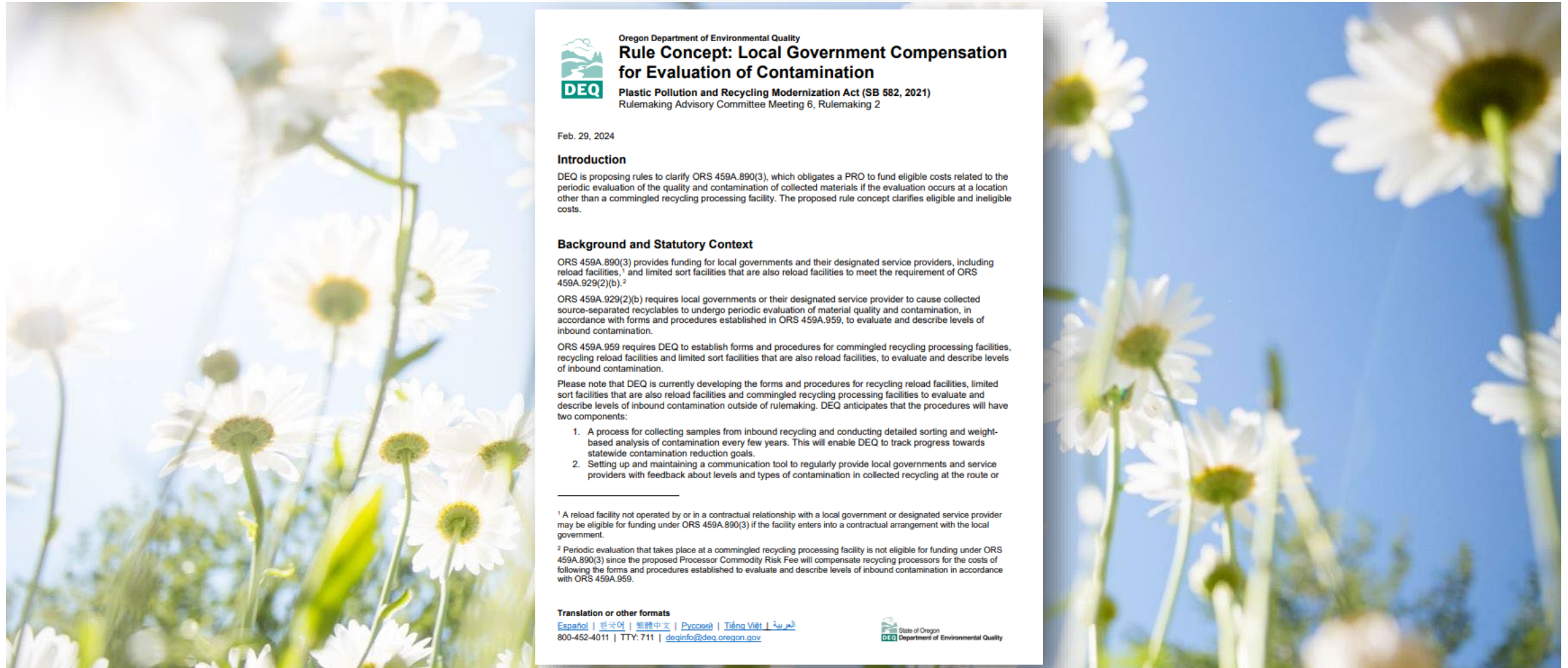
Proposal:

1. Use certified population estimates from previous year to calculate eligible compensation for upcoming fiscal year.
2. Local governments are eligible for \$3 per capita per fiscal year
3. Local governments may receive funding in advance; those 50,000 and smaller may receive funding for several years in advance, up to \$150,000.

Questions / Discussion?



LG Compensation for Contamination Evaluation





Oregon Department of Environmental Quality
Rule Concept: Local Government Compensation for Evaluation of Contamination
Plastic Pollution and Recycling Modernization Act (SB 582, 2021)
Rulemaking Advisory Committee Meeting 6, Rulemaking 2

Feb. 29, 2024

Introduction

DEQ is proposing rules to clarify ORS 459A.890(3), which obligates a PRO to fund eligible costs related to the periodic evaluation of the quality and contamination of collected materials if the evaluation occurs at a location other than a commingled recycling processing facility. The proposed rule concept clarifies eligible and ineligible costs.

Background and Statutory Context

ORS 459A.890(3) provides funding for local governments and their designated service providers, including reload facilities,¹ and limited sort facilities that are also reload facilities to meet the requirement of ORS 459A.929(2)(b).²

ORS 459A.929(2)(b) requires local governments or their designated service provider to cause collected source-separated recyclables to undergo periodic evaluation of material quality and contamination, in accordance with forms and procedures established in ORS 459A.959, to evaluate and describe levels of inbound contamination.

ORS 459A.959 requires DEQ to establish forms and procedures for commingled recycling processing facilities, recycling reload facilities and limited sort facilities that are also reload facilities, to evaluate and describe levels of inbound contamination.

Please note that DEQ is currently developing the forms and procedures for recycling reload facilities, limited sort facilities that are also reload facilities and commingled recycling processing facilities to evaluate and describe levels of inbound contamination outside of rulemaking. DEQ anticipates that the procedures will have two components:

1. A process for collecting samples from inbound recycling and conducting detailed sorting and weight-based analysis of contamination every few years. This will enable DEQ to track progress towards statewide contamination reduction goals.
2. Setting up and maintaining a communication tool to regularly provide local governments and service providers with feedback about levels and types of contamination in collected recycling at the route or

¹ A reload facility not operated by or in a contractual relationship with a local government or designated service provider may be eligible for funding under ORS 459A.890(3) if the facility enters into a contractual arrangement with the local government.

² Periodic evaluation that takes place at a commingled recycling processing facility is not eligible for funding under ORS 459A.890(3) since the proposed Processor Commodity Risk Fee will compensate recycling processors for the costs of following the forms and procedures established to evaluate and describe levels of inbound contamination in accordance with ORS 459A.959.

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Background: statutory context

Local governments must ensure collected recyclables undergo periodic evaluation for quality and contamination

ORS 459A.929(2)(b)

DEQ shall establish forms and procedures for processing and reload facilities to evaluate and describe levels of inbound contamination

ORS 459.959

PRO funding for periodic evaluation at locations other than recycling processors

ORS 459A.890(3)

Background: periodic evaluation

Detailed sorting and weight-based analysis of inbound recycling samples every few years

Communication tool for regular feedback at the route or customer level

Eligible costs

1. Carry out DEQ-established procedures in accordance with ORS 459A.959 to meet the requirements of ORS 459A.929(2)(b)
2. Include:
 - a) Staffing and administrative costs
 - b) Costs associated with purchase, installation, use, and maintenance of on-board equipment and software

Ineligible costs



System expansion requests made according to “Expansion of Service Funding and Needs Assessment”



Costs incurred at limited sort facilities that are not also reload facilities



Costs incurred at commingled recycling processing facilities

Discussion prompts



1. Are there other examples of eligible or ineligible costs that you think should be described in the rule language?
2. Do you have any feedback that could improve this rule concept?



Public Input Period

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

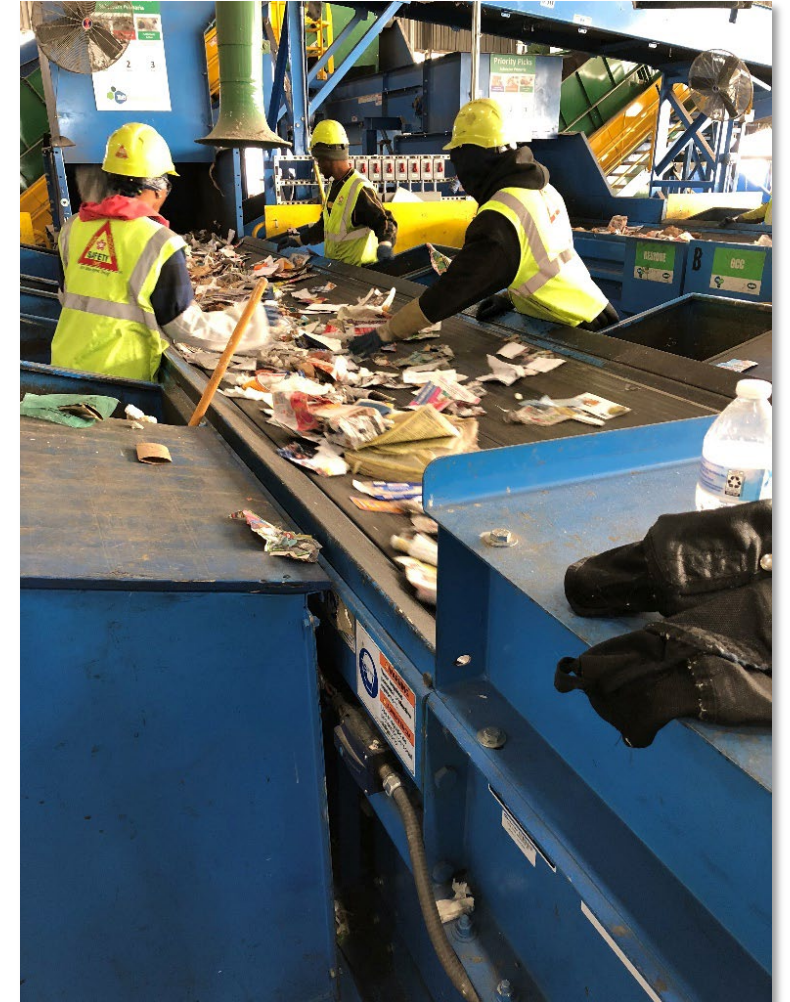
Input can also be emailed to
recycling.2024@deq.oregon.gov

CRPF Permit Fees



CRPF Permit Fees

- Proposed fee structure CRPF permit program:
 - A permit application fee of \$100 – \$500, to be assessed based on the anticipated tons received annually by the facility.
 - An annual permit compliance fee of \$50 – \$1,000, to be assessed based on the tons accepted annually by the facility.



Discussion prompts



Are there any questions regarding the proposed CRPF permit fees?

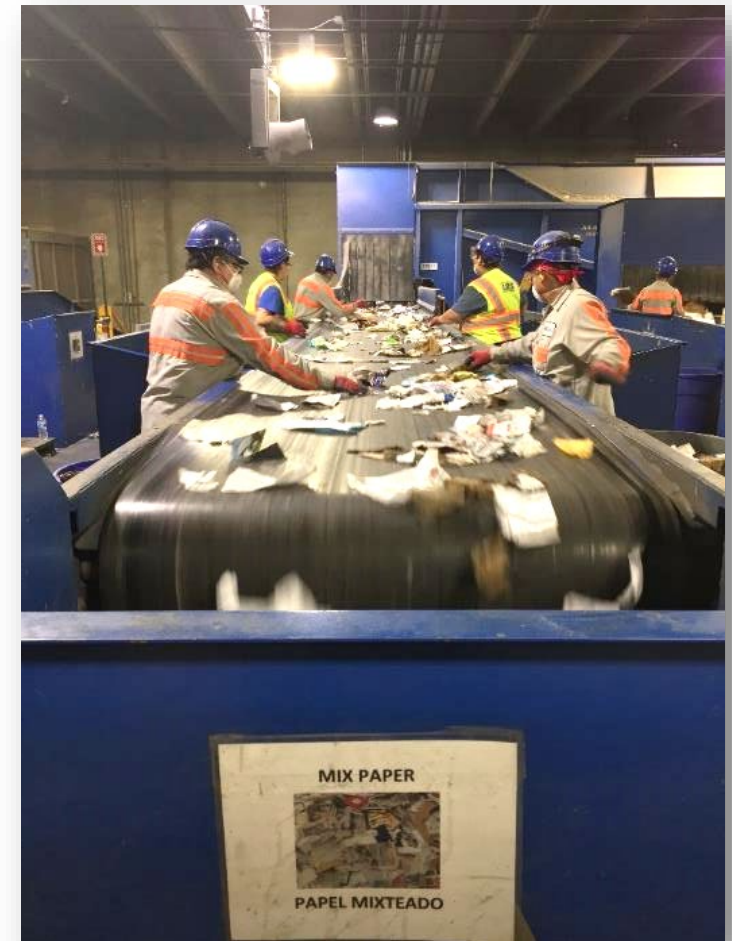


CRPF Certification Program



Threshold

- Certification requirements begin once an out-of-state commingled recycling processing facility accepts at least 2,500 tons of eligible material in a calendar year.
- The requirement under ORS 459A.905(2)(B) that such a facility be certified or otherwise certify that it meets the requirements of ORS 459A.955 does not apply to any given facility in any calendar year until it has accepted at least 2,500 annual tons of Oregon-originated commingled recyclable material.



Discussion prompts



Are there any questions regarding the proposed threshold?



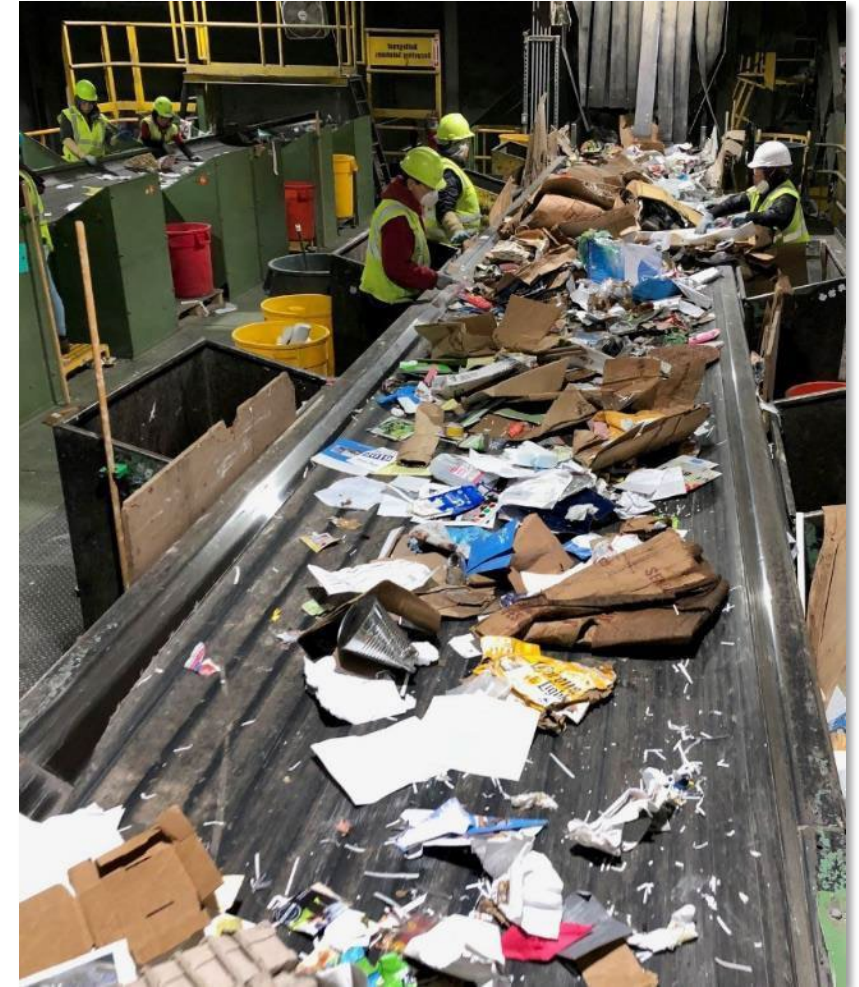
Application of performance standards



- Certification (including self-certification) for out-of-state CRPFs applies only to the requirements of ORS 459A.955(2)(a) – (c), (f), (g) and (h)(A).
- Requirements related to public nuisance and air or water pollution under ORS 459A.955(2)(d) and (e) will be addressed by local and/or state ordinances or laws within the state where the processing facility is located.

Assessment of Performance Standards

- The amount of material assessed at a facility to be based on the percentage of inbound commingled recyclable material processed that originated in Oregon compared against the total tonnage of commingled recyclable material processed by the facility over the last year.
- Responsible end market disposition and reporting requirements (955(2)(b) and (h)) would apply to 30% of outbound materials.
 - Standard applies to each commodity marketed by the facility, so it would apply to 30% of outbound corrugated volume, 30% of outbound HDPE volume, etc.
- Evaluation and reporting on inbound material quality and contamination would apply to 100% of all inbound materials originating from Oregon.



Assessment of Performance Standards



- Assessments of capture rates and outbound contamination rates to be conducted as follows:
 - A facility contracts with a DEQ-approved third-party certifier to conduct periodic assessments per the approach established by DEQ. A facility may request to use an alternative method to assess compliance with the established performance standards, subject to review and approval by DEQ.
 - CRPF must undergo at least one unannounced conventional evaluation method assessment within the first 2.5-year program plan period.
 - For each subsequent five-year program plan period, each facility would undergo at least two unannounced assessments.

Assessment of Performance Standards

- At any point, a facility may request to DEQ that data be provided via an alternative evaluation method. Any alternative evaluation method would need to produce similar or better quality data than the conventional evaluation method.
- A facility using an alternative evaluation method would provide all relevant data to a third-party certifier. The certifier will provide the data to DEQ on a schedule to be determined by DEQ.
- Any facility using an alternative evaluation method assessment for data-generation purposes would still need to undergo at least one unannounced conventional evaluation method assessment within each five-year program plan period.



Assessment of Performance Standards



- CRPF must make material available for on-site or off-site assessment.
 - The out-of-state CRPF will be responsible for selecting the percentage of bales to be sorted by the third-party certifier, or a contractor to the third-party certifier.
- If multiple site visits are necessary to assess compliance with the capture rate and outbound contamination rate-based performance standards, DEQ will work with the third-party certifier to determine the need and schedule for any follow-up sampling assessments.
- Initial conventional evaluation method assessments will be paid for by DEQ. CRPFs would be required to cover costs associated with any follow-up assessments, in accordance with protocols approved by DEQ.

Discussion prompts

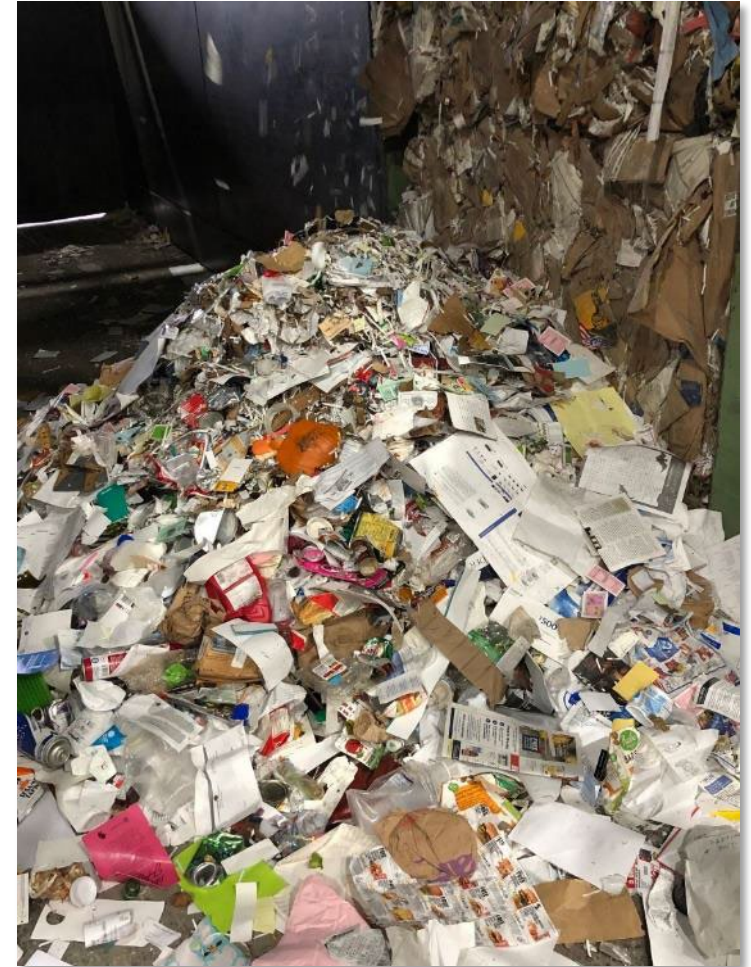


Are there any questions regarding the assessment of performance standards?



Reporting

- A service provider or a commingled recycling reload facility that transports materials collected to provide the opportunity to recycle to a commingled recycling processing facility located outside Oregon must obtain material disposition information from that facility for the materials originating in Oregon.
- Service providers and commingled recycling reload facilities would be required to report disposition information to DEQ on a quarterly basis.



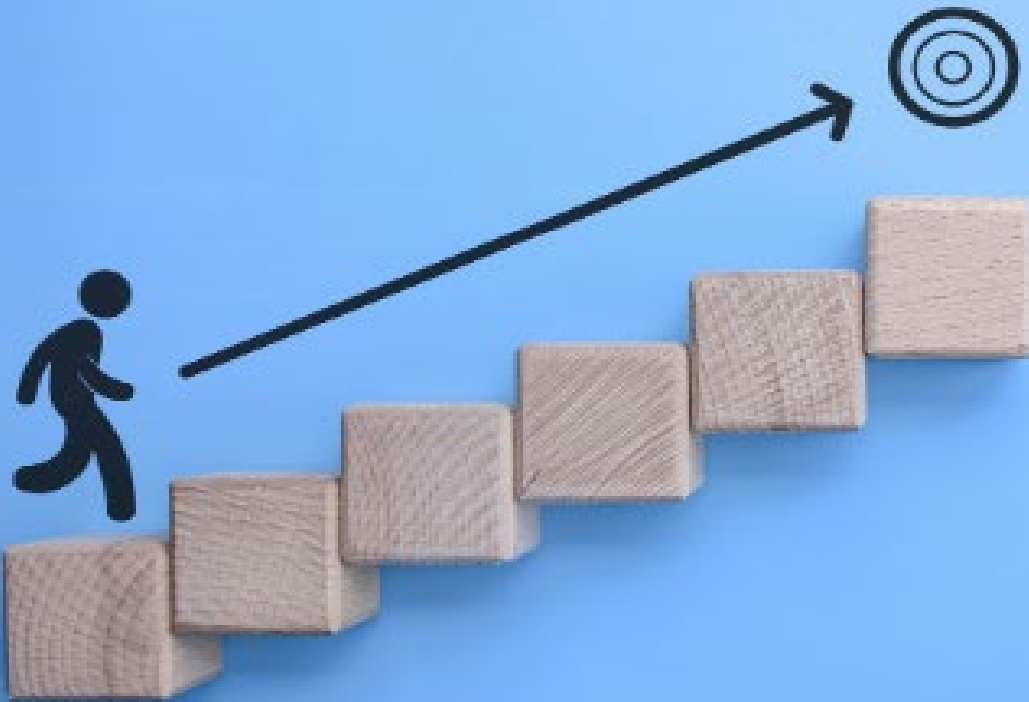
Questions?



Timeline

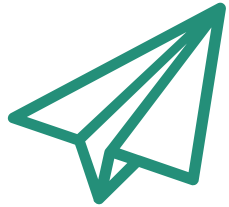


Next steps



- Connect with your networks
- Email any questions or feedback to:
recycling.2024@deq.oregon.gov
- Public Comment Period will open early June

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>

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