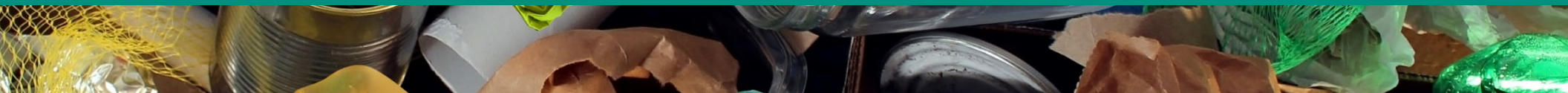




Oregon Recycling Modernization Act Commingled Recycling Processing Facility Technical Workgroup

Meeting #2

February 23, 2023



Agenda

- Project updates and follow-up from 12/20 meeting
- Crowe LLP – Overview of working relationship with CRPFs relevant to MRF Fees studies
- Responsible end-markets, certification of end-markets
- Introduction – Limited sort facility
- Public Input
- Adjourn

Introductions

- Introduction of new workgroup members and members not at 12/20 meeting



Project Updates and Follow-Up from 12/20 Meeting

Commingled Recycling Processing Facility Technical Workgroup
February 23, 2023



Project updates

Living Wage and Supportive Benefits

- Internal work kicked off 2/16; work being led by Stephanie Caldera.

Existing Permit Requirements

- Internal team looking over existing Material Recovery Facilities and Transfer Stations permit program to determine what requirements will carry over to new Commingled Recycling Processing Facility permit program; work being led by Audrey O'Brien.

Follow-up to 12/20 meeting #1

Q: Waste to disposal – A commodity or an expense?

- A: An expense.
 - The phrasing of “commodity” or “expense” sounds like a tax-law or tax accounting question outside the scope of DEQ. I don’t think we are the appropriate entity to weigh in on the question and would suggest businesses raise that question with their accountant or lawyer.

DEQ’s focus is on whether a material is a waste requiring permitting. Materials that may have some value, including recyclable materials, are still solid waste under state law.

Q: PCRFR – Will the study focus of costs associated with handling covered products only or all materials?

- A: All materials.
 - ORS 459A.923(1)(c)(A) defines “eligible processing cost” as “all costs associated with owning and operating a commingled recycling processing facility...”



Smart decisions. Lasting value.™

Overview of MRF Fees Studies

RMA Commingled Recycling Processing Facility Technical Workgroup

February 23, 2023

Crowe LLP and Boisson Consulting Team Members

Overview of MRF Fees Studies



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Agenda

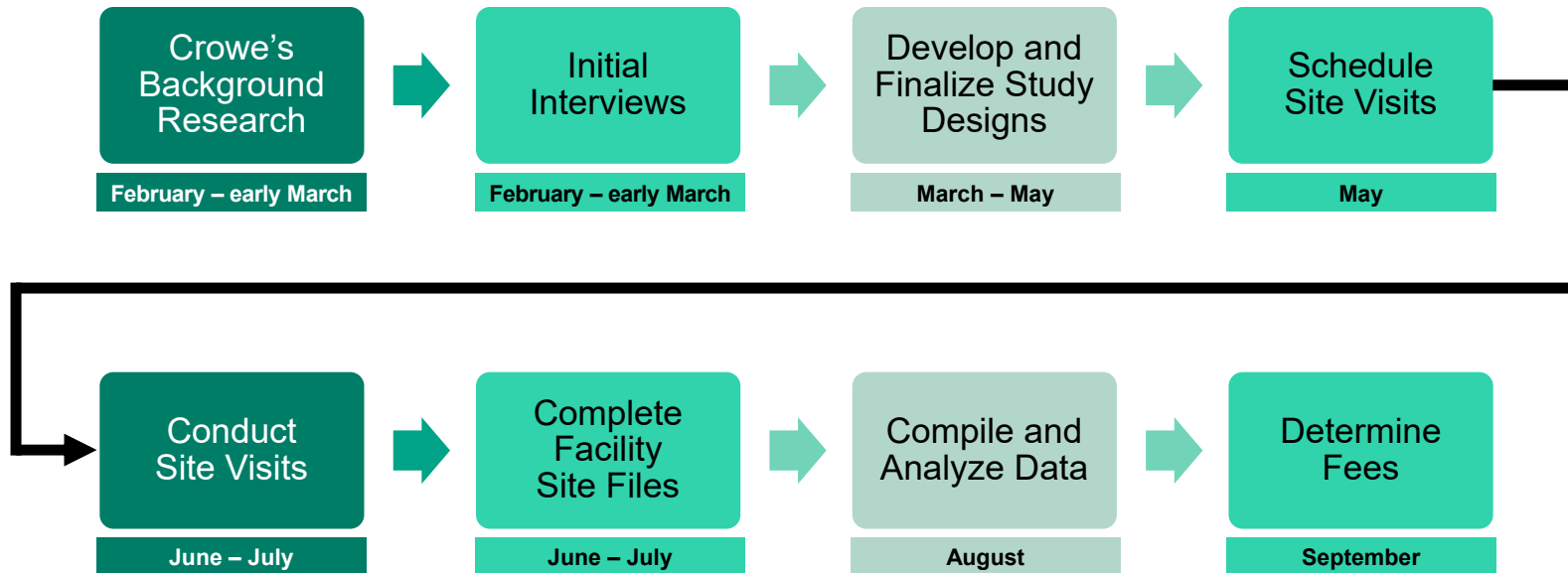
- 1**
Cost Survey Process
Overview and Timeline
- 2**
Initial One-on-One
Conversations
- 3**
Site Visit Process
- 4**
Financial Interview and
Information Requests
- 5**
Labor Interview and
Information Requests
- 6**
Data Compilation
- 7**
Confidentiality and NDA
- 8**
Questions &
Considerations



Cost Survey Process Overview and Timeline

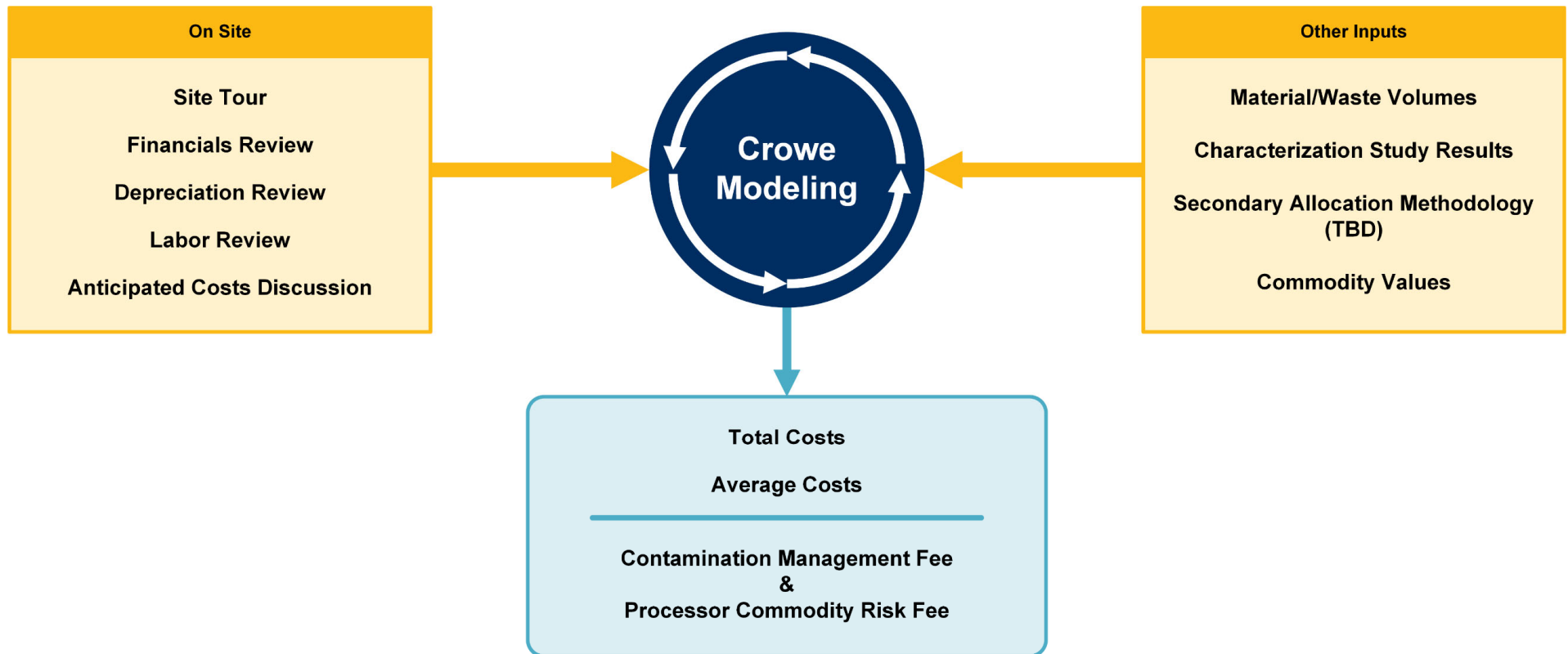
Cost Survey Process Overview and Timeline

Overview of MRF Fees Studies



High Level Overview of Proposed Methodology

Overview of MRF Fees Studies



Initial One-On-One Conversations

Initial One-on-One Conversations

Scheduling Teams/Zoom calls in early March

Purpose: Provide information and inform Crowe's understanding of material flow and operations at each facility to support our design of the Contamination Management Fee (CMF) and Processor Commodity Risk Fee (PCRF) studies.

- One-hour conversations
- Confirm Crowe's initial research on facility size, materials accepted, general operations
- Provide description of door-to-door flow of materials and where material comes from
- Describe sorting processes and materials separated
- Identify equipment
- Identify end-markets
- Discuss Oregon-specific pricing considerations for scrap markets
- Confirm financial and labor data formats and time periods
- Discuss future facility upgrades and "anticipated program cost"
- Input on questions and considerations

Site Visit Process

Site Visit Process

Overview of MRF Fees Studies



Site Tour

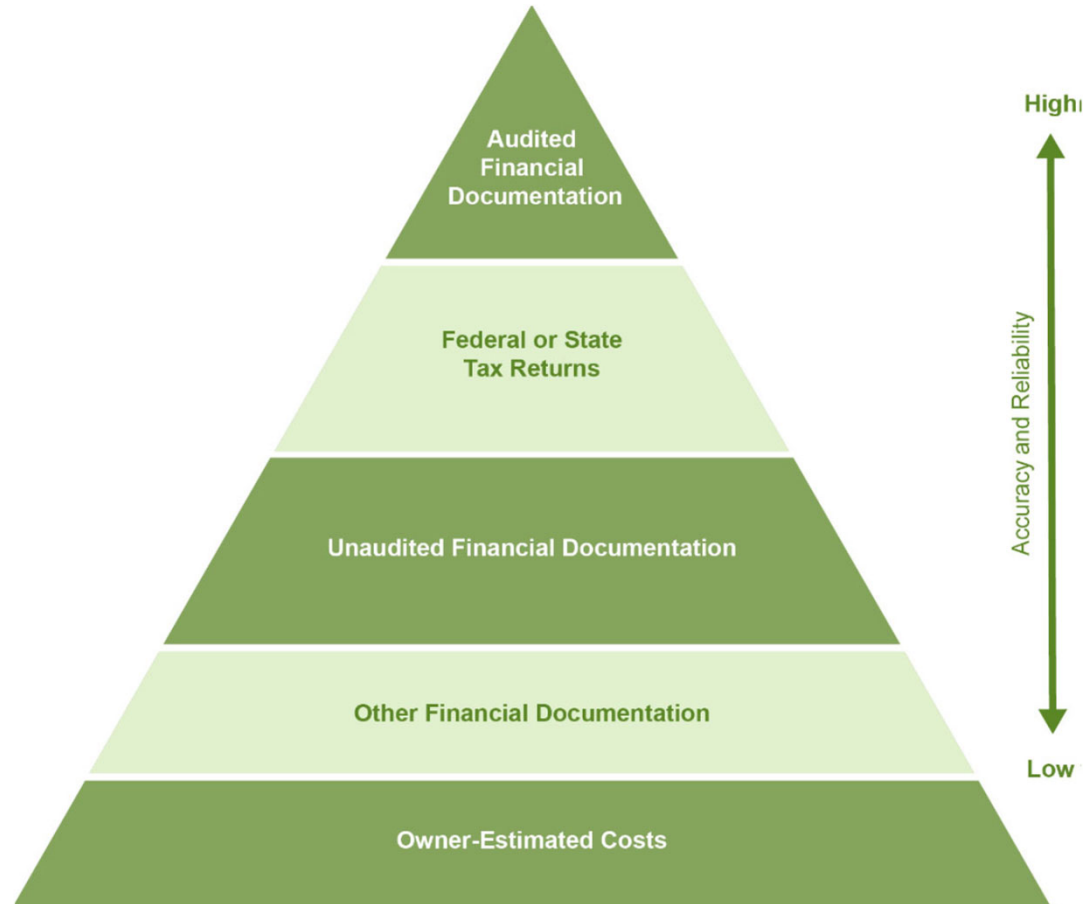
Purpose: Tie financial and operational information together and interview site management, accounting, and operations personnel at each facility to support data collection for the Contamination Management Fee (CMF) and Processor Commodity Risk Fee (PCRF) studies.

- Tour the site facilities and operations
- Interview site management
- Review financial information with site management/accounting personnel
- Review labor information with site management/operations personnel
- View sorting processes and materials separated
- Identify equipment present at the site
- View materials storage (e.g., bales, bunkers)
- Determine transportation methods
- Understand inbound and outbound material flows
- Discuss future facility upgrades and “anticipated program cost”

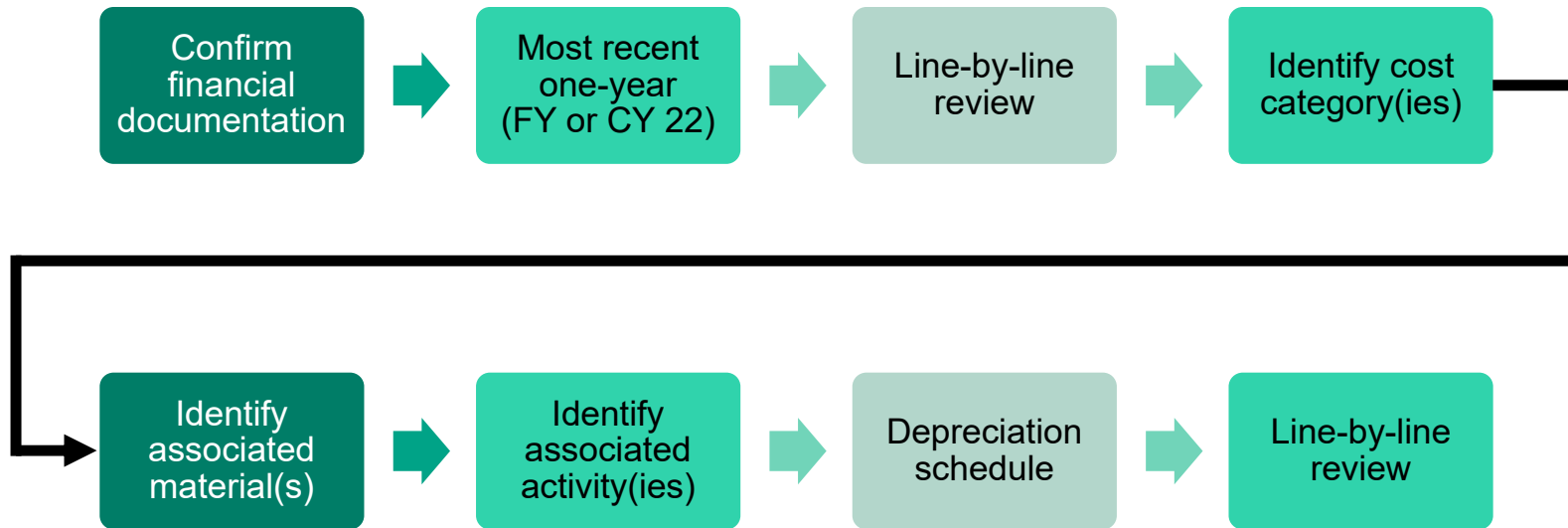
Financial Interview and Information Requests

Financial Information

Overview of MRF Fees Studies



Financial Review Process



Allowable Costs

Eligible Processing Cost

- All costs associated with owning and operating a commingled recycling processing facility
- Including but not limited to: sorting, handling, storing, disposal, marketing and shipping, administration, rent, fees, depreciation, fixed costs, profit, target price paid (as defined in section 2d, compensation per ton of delivered material), anticipated program costs
 - “all additional costs related to any new requirements of sections 1 to 43 of this 2021 Act that are anticipated prior to the next review of the processor commodity risk fee”
- Ensure no double-counting of material costs across multiple facilities
- Paid on basis of recyclable material received by OR sold from a commingled recycling processing facility

Contamination Management Costs

- Costs of removing and disposing of covered products that are contaminants
- Costs of removing and disposing of ALL contaminants

Cost Categories

During the financial interview, the Crowe Team will go line-by-line through financial documentation to identify cost categories and direct costing

Cost categories include:

- Direct labor
- Other labor/overhead (benefits, payroll taxes, worker's compensation insurance)
- General business overhead (accounting, fees, printing, payroll processing, etc.)
- Transportation
- Rent/mortgage
- Depreciation
- Property taxes
- Utilities
- Supplies
- Fuel
- Insurance
- Interest
- Maintenance

Direct Costing

Direct costs are specific line items or portions of line items that apply to one or more materials/activities/operations. Examples of direct costs include:

- Depreciation costs of a baler used only for corrugated
- Rent for a facility used only for “other business” (e.g., not associated with the MRF)
- Baling wire used for corrugated, plastics, and aluminum
- Equipment used for processing scrap metals.

Direct costs will be identified and assigned to the appropriate materials and/or activities.

Non-Allowable Costs

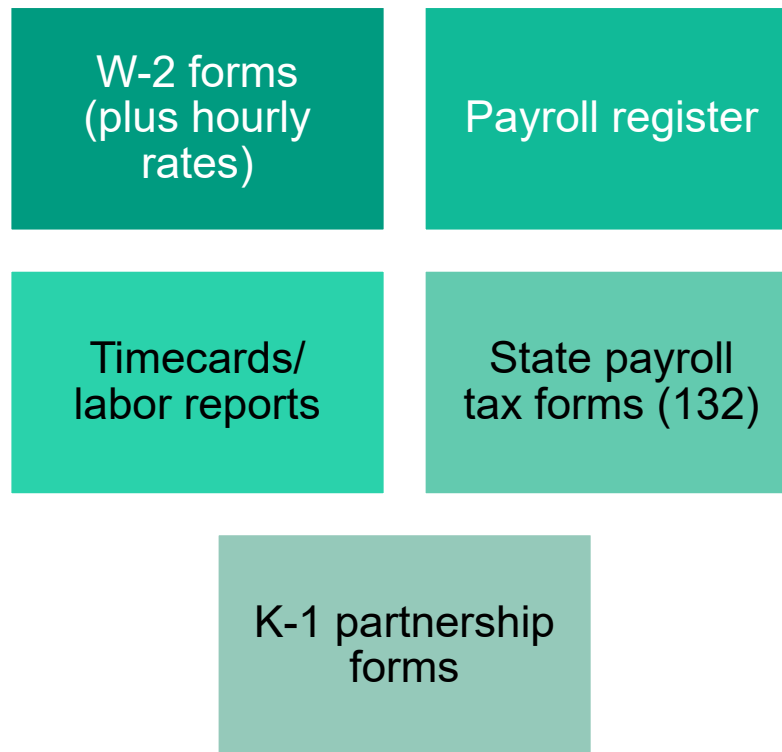
Costs excluded from MRF Fees, including but not limited to:

- Other business costs
- Transportation to the facility
- Revenue from sales of recyclables
- Costs accounted for at another facility (no double-counting)
- Costs reimbursed by PRO, including contamination management fee
- Costs of materials originating outside of Oregon

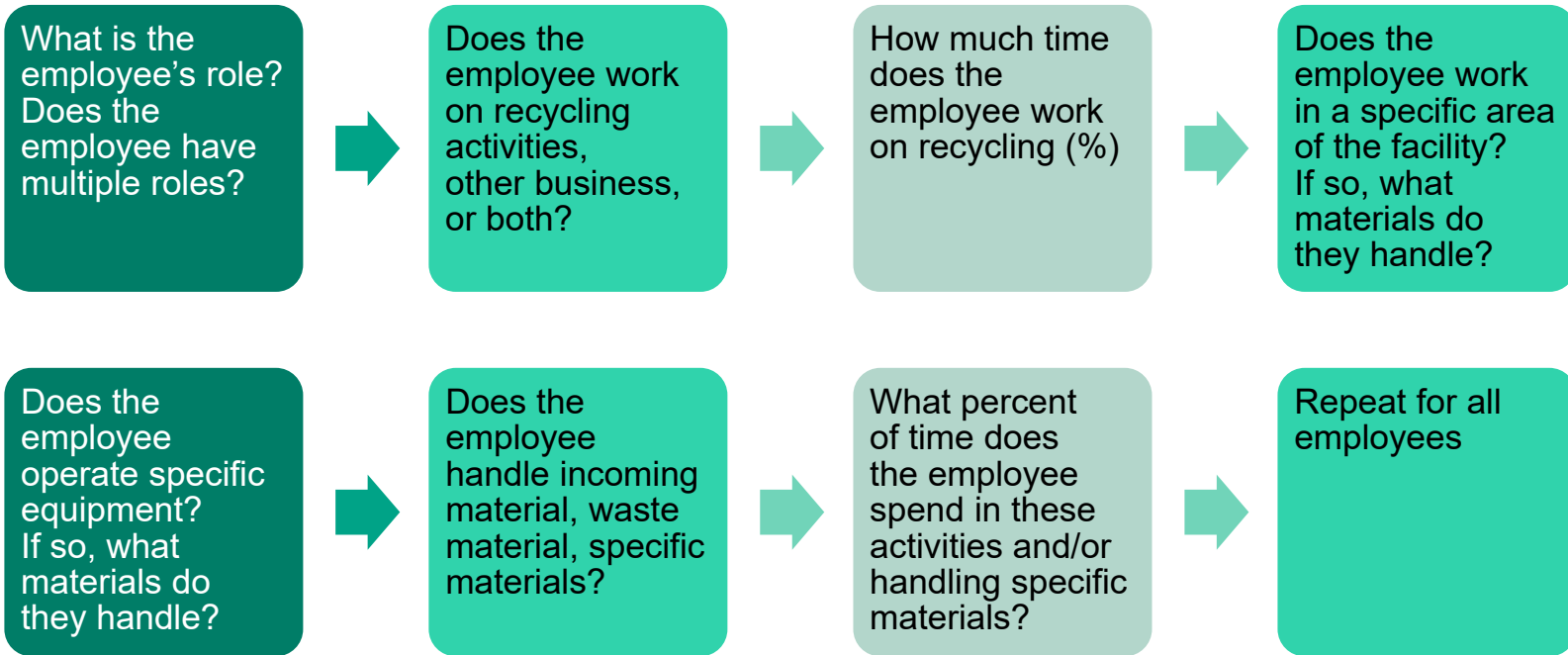
Labor Interview and Information Requests

Example Sources for Employee Wages and Hours

Overview of MRF Fees Studies



General Line of Labor Interview Questioning



Data Compilation

Data Compilation

Crowe will develop a methodology to compile data across MRFs, incorporating factors including, but not limited to:

- Material waste streams/volumes
- Flow of materials between facilities
- Waste characterization study results
- Labor allocation methodology
- Secondary allocation methodologies, TBD
- Commodity values (West Coast market and Oregon-specific factors)
- Weighting factors

Processor commodity risk fee results will report costs based on tons of commingled recycling received and tons of materials shipped to end markets.

Contamination management fee will calculate costs to remove and dispose of contaminants for covered materials and all materials.

Confidentiality and NDA

RMA Confidentiality Language and NDA

Sections 24 and 25 include the following:

“Any proprietary information provided to the department under subsection (1)/(2) of this section or to a person conducting a study under subsection (2)/(3) of this section may be designated confidential by a commingled processing recycling facility. Information designated confidential is not subject to disclosure under ORS 192.311 or 192.478, except that information may be disclosed as summarized or aggregated data if doing so does not directly or indirectly disclose the proprietary information of any specific facility.”

Non-Disclosure Agreements

Crowe is finalizing NDAs between ourselves and each MRF prior to the one-on-one call to further establish confidentiality requirements.

Questions & Considerations

Questions & Considerations

We recognize there are still unanswered questions and considerations at this point in the process, including but not limited to:

- How to account for the interdependence of sorting steps – you cannot sort material without removing contaminants?
- How to incorporate and combine costs across the commingled stream as it moves from one facility to another?
- How to incorporate “anticipated costs” that have not yet occurred?
- How to reconcile currently sorted material, yet-to-be-determined uniform statewide collection list, and to-be sorted materials?
- What is an acceptable level of profit (reasonable financial return)?

Crowe will be working through these questions as we develop the study methodologies; we welcome your input during the one-on-one calls.

In the remaining time, are there questions about Crowe’s overall approach?



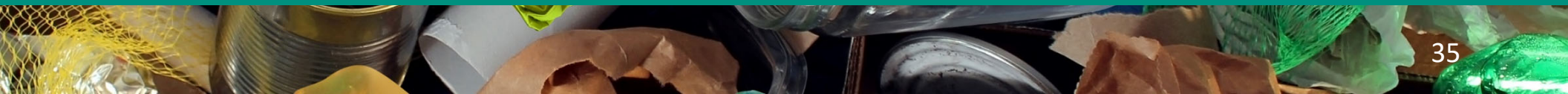
Thank You

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Short Break

The meeting will resume at approximately 11:50a.





Responsible End Markets: Certification Benchmarking

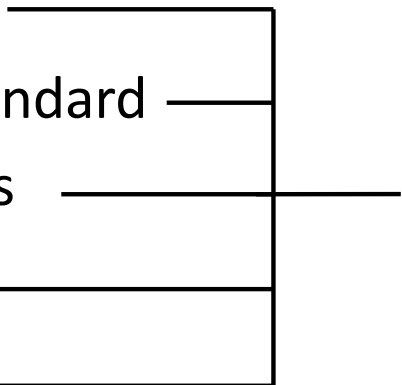
Commingled Recycling Processing Facility Technical Workgroup

February 23, 2023

Nicole Portley, nicole.portley@deq.oregon.gov



First, a review: Responsible end markets

- 1) Background Info
 - 2) “End market” Definition
 - 3) 4-prong “responsible” standard
 - 4) Implementation pathways
 - 5) Reporting and Auditing
 - 6) “Practicability”
 - 7) Confidentiality
- Draft rules applying to PRO obligations*
- 

1. Background info

“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.”

Commingled processor and PRO obligations

	Commingled Recycling Processing Facilities (CRPFs)	Producer Responsibility Organizations (PROs)
Scope of materials	All materials accepted (covered products and others)	Covered products: <ol style="list-style-type: none"> 1. Collected for recycling at PRO depots 2. Included on the uniform statewide collection list and collected under the opportunity to recycle 3. Identified as a “specifically identified material” 4. Recycled in an effort to achieve statewide plastic recycling goal
Responsible end markets obligations	<ul style="list-style-type: none"> • Market materials to responsible end markets • Report all disposition 	<ul style="list-style-type: none"> • “To the extent practicable, ensure that covered products will be . . . delivered to responsible end markets. • Report all disposition
Follow the policy hierarchy	No obligation	“To the extent practicable, ensure that covered products will be . . . Managed according to the hierarchy of materials management options under ORS 459.015(2)”

2. Material-specific definitions for “end market”



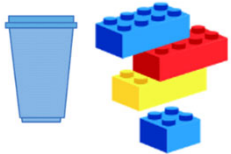
- Glass: user of the recycle to make a new product



- Metal: producer of the recycle, e.g. of ingots, sheet, coil etc. by smelting



- Paper: facilities that re-pulp recycled material



- Plastic for food and beverage packaging and children's toys: user of the recycle to make a new product



- Plastic for all other applications: last handler of the recycle (typically flakes or pellets) before sold to a producer.

3. Standard for “responsible” 4. implementation pathways

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

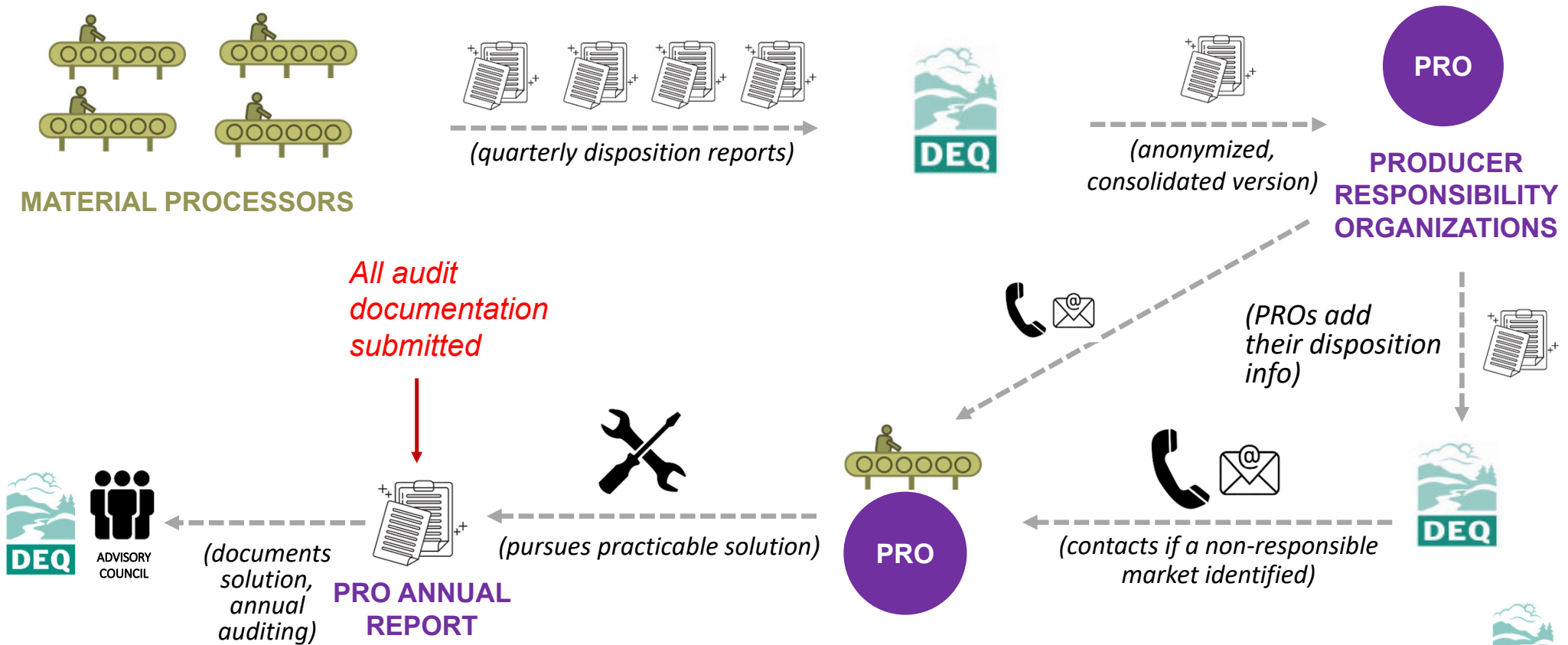
All entities post-CRPF in the supply chain up through and including the end market, including brokers

Steps to implement:

- 1) *Self-attestation*
- 2a) *3rd party certification*
- 2b) *Verification*



5. Responsible end market reporting



Schedule for rulemaking & implementation

Rulemaking

Rulemaking 1: July 2022 – November 2023

Rulemaking 2: May 2023 – September 2024

Date	Item
February 23, 2023	Initial certification benchmarking presented to Rulemaking 2 technical work group for review/feedback
April 2023	Last Rulemaking Advisory Committee meeting of Rulemaking 1, draft rules for the “responsible” standard are posted prior to the meeting
Spring 2023	Follow-up presentation on certification to technical work group
May - June 2023	Rulemaking 1 draft rules finalized and posted for public comment
September 2023	Rule concept for certification presented to the Rulemaking Advisory Committee
November 2023	Rules from rulemaking 1 adopted by the Environmental Quality Commission
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September 2024	Environmental Quality Commission adopts Rulemaking 2 rules

Rulemaking dates and dates proposed in draft rules are subject to change

Recycling Modernization Act Implementation

Date	Item
Spring 2023	PRO program plan guide developed and distributed to prospective PROs
March 31, 2024	Prospective PROs submit program plans to DEQ
April 2024 – June 2025	Program plan review, interim coordination among prospective and approved PROs
July 1, 2025	Start date for the program plans, deadline for self-attestations from end markets of materials under PRO control that they meet the “responsible” standard
October 1, 2025	DEQ receives first quarterly report on materials disposition from the Commingled Recycling Processing Facilities (CRPFs), anonymizes and shares with PROs
January 1, 2026	Deadline for self-attestations from end markets of materials under CRPF control that they meet the “responsible” standard
June 30, 2026	Deadline for certification/detailed verification of end markets of materials under PRO control
September 30, 2026	Deadline for certification/detailed verification of end markets of materials under CRPF control

Required verification audit elements

- Random bale tracking;
- Justification for the placement of the “end market;”
- Relevant local, state, national and treaty obligations applicable to a particular supply chain;
- Documentation that the end market and intermediary supply chain entities meet all standards established under the definition of “responsible;”
- Documentation of noncompliance with a definitional element of “responsible;”
- Documentation of the auditor’s qualifications; and
- Certification and signature from the auditor that the end market meets the definition of “responsible.”



6. PRO obligations are “to the extent practicable”

ORS 459A.896(2):

“A producer responsibility organization, shall, *to the extent practicable*, ensure that covered products collected in this state for the purpose of recovery and described in ORS 459A.869(7) will be:

- (a) Delivered to responsible end markets;
- (b) Managed according to the hierarchy of materials management options under ORS 459.015(2); and
- (c) Managed in an environmentally protective way through to final disposition.”

Rule concepts: “practicable”

- Definition by example
- \$___/ton average benefits benchmark for making a case of “impracticability”
- Material list review trigger
- Customized “impracticability” case



7. Confidentiality

- “Proprietary” information definition
 - Uniform Trade Secrets Act
 - Information aggregation
- Information not considered proprietary:
 - List of end markets for Oregon’s waste, including the business name; city, state/region, and country; identity of the material received; and amount received.



Application of these rules to CRPFs? A proposal:

Apply the following rules to CRPFs as well as PROs:

- End market definition
- “Responsible” standard
- Self-attestation first step
- Deadlines for self-attestation and certification (program start, one year later)
- Reporting: all certification documentation submitted as part of CRPF permitting
- Confidentiality

These rules would apply only to PROs:

- Verification pathway, audit contents
- Practicability

Questions?



All of the information presented thus far is included in Rulemaking 1, to be reviewed/approved by the EQC later this year

Schedule for rulemaking & implementation

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Relevant statutory language

ORS 459A.955(2)

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

(b) Market materials to responsible end markets or to another commingled recycling processing facility, provided that the permittee complies with the requirements for a commingled recycling reload facility under ORS 459A.905;

(h) For all materials held by the processor:

(A)(i) Accurately report the final end market of the materials; or

(ii) 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 under subsection (3) of this section.

Certification

CRPFs: Statutory Language

ORS 459A.955(3)

The commission shall prescribe by rule the requirements for a permit issued under ORS 459.205 and this section...Rules adopted under this section may include:

(b) The identification of approved programs for certifying the environmental and social sustainability of responsible end markets.

PROs: Draft Rule Language

A PRO must ensure that materials collected for recycling go to responsible end markets...by completing the following two steps successively:

(A) First, a PRO must conduct an initial screening assessment and receive written verification from each end market and intermediary supply chain entity meets the responsible standard

(B) Next a PRO must conduct a more detailed assessment...either through a verification by the PRO...or through third-party certification from a commission-approved program.

Steps toward EQC approval of a certification

1. Benchmark existing certifications against Oregon's "responsible" standard

2a. Propose strong performer(s) on the benchmarking for EQC approval.

Individual certification(s) that can be used to meet the entire obligation

Individual certification(s) that can be used to meet the entire obligation for particular materials

A packet of certifications that each cover certain aspects of the "responsible" standard

2b. If no certifications benchmark strongly, propose no certification for EQC approval now and begin the program with self-verification only.

3. Through PRO collaboration with an auditor, a new standard could be born and approved by EQC in a later rulemaking.

Certification “packet” option

	Verifies Compliance	Verifies Chain of Custody	Verifies Environmental Soundness	Verifies Yield
Certification A		X		X
Certification B	X			
Certification C			X	
(As a “Packet”)	X	X	X	X

Certification terminology

- **Standard** – The bar against which obligated entities are being measured. Through its rule concepts defining “responsible end market,” DEQ has established a standard for “responsible”
- **Standard-bearer** – The entity responsible for the evolution of the standard. As the standard is in rule, DEQ is the standard-bearer for the “responsible” standard.
- **Certification** – The mechanism for verifying performance to a standard.
- **Certification Body** – An entity accredited to conduct assessments for a particular certification.
- **Benchmarking** – The process by which overlap among existing certifications and the “responsible” standard is evaluated.

Benchmarking process

1. Determine a list of certifications that might be relevant.
 2. Conduct a rapid benchmarking consisting of 18 questions exploring overlap with the “responsible” standard.
 3. DEQ staff collaborate with standard-bearer staff to complete a detailed benchmarking.
 4. DEQ writes a rule proposal and receives feedback.
- Diagram illustrating the benchmarking process steps and associated meetings:
- Step 1 and Step 2 are connected by a bracket to the meeting: TWG mtg (Feb 23)
 - Step 3 is connected by a horizontal line to the meeting: Later TWG mtg (spring 2023)
 - Step 4 is connected by a horizontal line to the meeting: RAC mtg (Sept. 2023)

List of relevant certifications

- Aluminum Stewardship Initiative (ASI) Chain of Custody Standard
- Association of Plastic Recyclers (APR) PCR Certification
- Forest Stewardship Council (FSC)
- Global Recycle Standard/Recycled Claim Standard (GRS/RCS)
- GreenCircle “packet” (GreenCircle Waste Diversion from Landfill, GreenCircle Recycled Content)
- International Sustainability and Carbon Certification (ISCC+)
- ISO “packet” (ISO 9001, 14001, and 45001)
- Recycling Industry Operating Standard (RIOS)
- Recycled Material Standard (RMS)
- SCS certification “packet” (SCS Recycled Content, SCS Responsible Source, and SCS Zero Waste Standards)
- Sustainable Forestry Initiative (SFI)
- UL certification “packet” (UL ECVP 2809 on recycled content, UL ECVP 2799 on Zero Waste to Landfill and UL ECVP 1397 Net-Zero Water)

Benchmarking questions

- Is the Scope of the certification(s) adequate?
- Do/does the certification(s) verify compliance?
- Do/does the certification(s) verify chain of custody?
- Do/does the certification(s) verify environmental soundness of materials management?
- Do/does the certification(s) verify yield?

1. Is the scope adequate?

Sub-questions

- 1a.** Geographic scope: Can facilities all over the world be certified? (is the scope global?)

- 1b.** Material scope: do/does the certification(s) apply to all or some product types covered under the RMA? (plastic, metal, glass, paper)

- 1c.** Recycling scope: do/does the certification(s) cover all types of recycling? (i.e., mechanical, chemical)

- 1d.** Chain of custody scope: can the certification(s) cover all supply chain entities post-CRPF (or post-collection if there is no CRPF) through to the end market, including brokers?

2. Is compliance verified?

Sub-questions

- 2a.** Do/does the certification(s) verify compliance (of all entities within the chain of custody scope) with relevant local, state, and national environmental and public health laws and international treaties?

- 2b.** Do/does the certification(s) verify compliance (of all entities within the chain of custody scope) with relevant local, state, and national labor laws and international treaties?

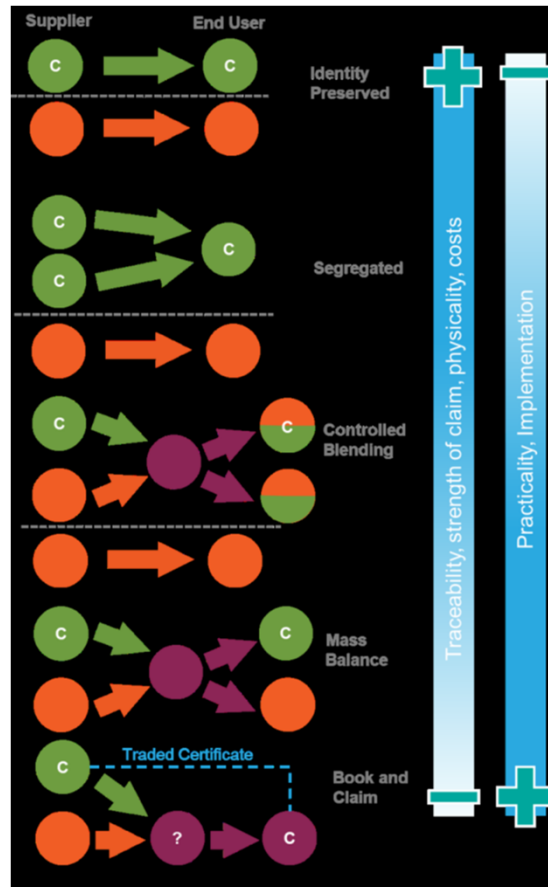
- 2c.** Do/does the certification(s) verify that all entities within the chain of custody scope are registered and permitted as required by local, state, and national authorities?

3. Is chain of custody verified?

Sub-questions

- 3a.** Must all nodes in a supply chain be willing to be named and audited in order to achieve certification?
- 3b.** Do/does the certification(s) require documentation tracking materials to the producer of the next product and/or to disposition? (i.e., if there is yield loss and materials are diverted to landfill, incineration etc.)
- 3c.** What is the method of accounting when materials from a certified supply chain are mixed with materials from a non-certified supply chain? (or is this not allowed?)
- 3d.** Must documentation of penalties, violations or regulatory orders be maintained as part of the chain of custody?

Accounting methods



- = waste from Oregon
- = waste from elsewhere
- = mixed
- Ⓢ = certified

4. Is environmental soundness verified?

Sub-questions

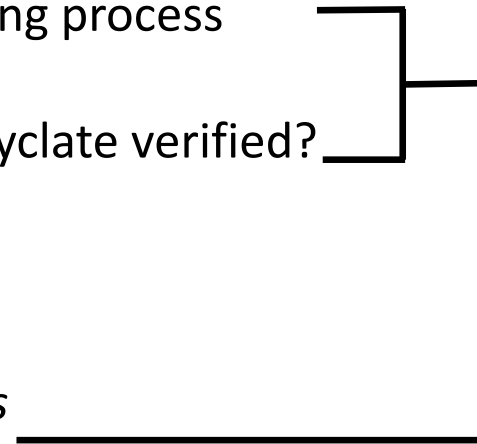
4a. Are containment/releases of waste verified?

4b. Is sustainable use of inputs verified?

4c. Is the potential use of toxic chemicals in the recycling process verified?

4d. Is the potential release of toxic chemicals from recyclate verified?

Not in the “responsible” standard, but possible areas where a certification might go beyond our standard



5. Is yield verified?

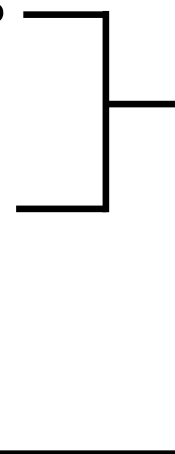
Sub-questions

5a. Is the weight of material entering and exiting each facility recorded?

5b. Is yield ever verified through a site visit? If so, how often are they conducted?

5c. What is the method of accounting for chemical recycling?

Need to add a question: does the certification measure yield on a material-specific basis? (i.e., in a mixed bale)



Questions and Comments



Input on the list of included certifications and benchmarking method is most welcome!

Preliminary benchmarking results

	ASI*	APR*	FSC*	GRS/RCS	GreenCircle*	ISCC+	ISO* packet	RIOS	RMS	SCS packet	SFI	UL packet
Scope				(all)		(plastic, paper)		(all)	(plastic)	(all)	(paper)	(all)
Compliance												
Chain of Custody												
Env. Soundness												
Yield												

*Asterisks mark certifications for which benchmarking has not yet been undertaken

Questions and Comments



(on the preliminary benchmarking results and anything else from the presentation)

More information



Please send related inquiries to: nicole.portley@deq.oregon.gov



Introduction – Limited Sort Facility

Commingled Recycling Processing Facility Technical Workgroup
February 23, 2023



Introduction – limited sort facility

ORS 459A.863 (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.



Pic courtesy of Justin Gast



Public Input

Commingled Recycling Processing Facility Technical Workgroup
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