

Recycling Modernization Act: Commingled Recycling Processing Facility

Technical Workgroup

Contamination Management Fee – Invoicing Options

Date: Sept. 21, 2023

Background

ORS 459A.920 requires the Environmental Quality Commission by rule to 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 contaminants.

Under this fee:

- 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;
- The fee may not be based on commingled recycling originating outside of Oregon; and
- DEQ shall review the contamination management fee at least once every five years. The department may not review the contamination management fee more frequently than once per year.

Financial consultants Crowe LLP has been contracted to undertake the study to determine the per-ton price to be paid by the Contamination Management Fee. Preliminary results of that study will be made available to the Commingled Recycling Processing Facility Technical Workgroup ahead of its October meeting. Crowe will also present on the study's preliminary findings at that October meeting.

Invoicing Options

DEQ seeks feedback from the Commingled Recycling Processing Facility Technical Workgroup on two different approaches for invoicing of the Contamination Management Fee. DEQ will dedicate discussion time at its September 25th technical workgroup meeting to discuss the two options.

Option 1

This approach would establish an invoicing structure that uses data pulled from the 2023 Inbound Commingled Recycling Study to determine:

- Percentage of inbound that is covered product; and
- Average inbound contamination rate (based off all commingled recycling processing facilities studied).

When combined with the processing facility's monthly tonnage figure and Crowe's per-ton figure for the Contamination Management Fee, the monthly calculation to use with invoicing would look as such:

(Tons processed by [facility name] for [month and year] X percentage of inbound that is covered product) X average inbound contamination rate = tons X Crowe's per-ton calculation for CMF

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The final figure is what the commingled recycling processing facility would invoice the PRO for no more frequently than once per month.

Notables with this option

To determine future average inbound contamination rates, DEQ could consider language similar to what is being used to address “the proportion of a shipment of recyclable material that is not covered products,” as proposed under OAR 340-090-0770(6):

- a) *Until completion of the study described in subsection (b) of this section, a producer responsibility organization will use data from the 2023 Oregon Solid Waste Characterization and Composition Study to determine the proportion of a shipment of recyclable material that is not covered products.*
- b) *Starting in 2027, and at least once every five years thereafter, a producer responsibility organization must fund a study to determine the proportion of collected recyclable material that is covered product and is eligible for transportation costs reimbursement. The study will include the following:*
 - (A) *The study will provide statewide averages for the proportion of covered material in commingled recyclable material, recyclable material that is collected separately and recyclable material that is not fully commingled. For the latter two categories the study may provide different averages for different materials as appropriate.*
 - (B) *Study protocols and timing must be included in the producer responsibility organization’s program plan and will be approved as a part of plan approval under ORS 459A.878. If multiple producer responsibility organization program plans are approved by DEQ, the producer responsibility organizations’ coordinating body will undertake one study and submit a joint study protocol to DEQ for approval in the manner provided by DEQ.*
 - (C) *Upon completion of a study, a producer responsibility organization, or coordinating body, will use the statewide averages from the study to determine the proportion of a shipment of recyclable material that is not covered products.*

DEQ could also consider language that uses components of proposed OAR 340-090-0770(6)(3). That language would read:

- c) *If a commingled recycling processing facility or a producer responsibility organization believes that the average inbound contamination rate is substantially different compared to the rate currently being used with the CMF calculation, a commingled recycling processing facility or producer responsibility organization may, at their own expense, conduct a study to determine the average inbound contamination rate. The party conducting the study would be required to provide the other parties and DEQ at least 30 days to comment on study methods.*

Another notable with this option is that it would compensate CRPFs for covered product contaminant received, regardless of how effective a CRPF is at separating and removing that contamination. CRPFs that remove more would be paid the same amount for each ton of incoming recyclables as a CRPF that removes less.

Option 2

Under this approach, the Contamination Management Fee would be assessed on the tons of covered product sent off to disposal by a commingled recycling processing facility. Contamination Management Fee funding would only be assessed on tons of material sent to disposal which was collected by a commingled recycling collection program in Oregon. Material collected by a non-RMA related collection program would not be eligible for Contamination Management Fee funding.

Invoicing under this approach would look as such (with tonnages provided for purposes of example only):

TOTAL TONS RECEIVED BY [CRPF NAME HERE] FOR [MONTH AND YEAR]: 10,000 TONS

- Eligible tons received and processed from local government collection programs: **6,000 tons**
- Eligible tons acquired from other in-state facilities: **800 tons**
 - **400 tons** from [CRPF name]
 - **400 tons** from [CRPF name]
- Tons of commingled USCL material moved to other CRPFs for further processing: **0 tons**

TOTAL ELIGIBLE TONS PROCESSED = 6,800 tons

- Ineligible tons of out-of-state-generated material processed: **1,200 tons**
- Ineligible tons of non-RMA-program (not commingled) material processed: **1,000 tons**
- Ineligible tons of non-commingled recyclable material processed: **1,000 tons**

TOTAL INELIGIBLE TONS PROCESSED = 3,200 tons

TOTAL COMMINGLED TONS PROCESSED = 6,000 + 800 + 1,200 = 8,000 tons

Percentage of total that is eligible = $(6,000 + 800)/(8000) = 85\%$

Percentage of contamination that is covered products (percentage pulled from *2023 Inbound Commingled Recycling Study*) = **44.8%** (current study estimate)

Composite percentage of disposal that is eligible (in-state covered products) = $.85 \times .448\% = 38.1\%$

TOTAL TONS OF RESIDUALS SENT TO LANDFILL: 200 TONS

200 X percentage of eligible tons for [Month, year] compared against total tons processed for [month, year] (NOTE: percentage may/will change from month to month) = $200 \times .381 = 76.2$ tons

76.2 tons X Crowe's per-ton calculation for CMF = [\$TK]

The final figure is what the commingled recycling processing facility would invoice the PRO for no more frequently than once per month.

Other notable information

Regardless of the invoicing option selected, DEQ will establish in rule new requirements, reporting and otherwise, to ensure the following are met:

- Provide that the fee may not be based on commingled recycling originating outside of Oregon (ORS 459A.920(2)(b));
- Establish a review process to ensure that the fee is appropriately charged (ORS 459A.920(2)(c)).

As part of the data that CRPFs will be required to submit to DEQ, DEQ could request monthly residual tonnage data, which DEQ would spot check against the tonnage figure the CRPF is charging the PRO for under the CMF.

Non-discrimination statement

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