

# Recycling Modernization Act: Commingled Recycling Processing Facility Technical Workgroup

## Contamination Management Fee – Options for Handling Covered Product Contamination Sent to Recycling Markets

Date: Nov. 29, 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.

The Recycling Modernization Act defines “contaminant” as:

- a) A material set out for recycling collection that is not properly prepared and on the list of materials accepted for recycling collection by a recycling collection program; or*
- b) A material shipped to a recycling end market that is not accepted or desired by that end market.*

These two elements may, at times, conflict with each other. For example, clamshells made of PET thermoformed material are not included on the Uniform Statewide Collection List (as adopted by the EQC on November 16 of this year), so if placed into the commingled mix they are a “contaminant” per (a) above, even if a commingled recycling processing facility (CRPF) chooses to separate them out and market them to an end market that accepts or desires them.

As such, this means that there are three different scenarios in which “contaminants” (that are also covered products) may flow out of a CRPF:

1. Materials not on the USCL or not otherwise properly prepared may be sent by a CRPF to disposal.
2. Materials not on the USCL may be sent to a recycling end market that accepts or desires it.
3. Materials not on the USCL may be sent to a recycling end market that does not accept or desire it.

### Translation or other formats

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To date, most of the technical workgroup's discussion of the Contamination Management Fee (CMF) has focused on compensation of CRPFs under scenario 1 (contaminants are sent to disposal). Clearly, the CMF should not be paid for contaminants sent to an end market that does not want them (scenario 3), as that is the historical practice which undermines the viability of the recycling system and which the Recycling Modernization Act is designed to minimize.

But what about scenario 2, where a CRPF goes above and beyond its permitting requirements and chooses to further separate and market, to a willing and responsible end market, materials not on the USCL but which nevertheless can be recycled?

This question was asked at the Oct. 26 meeting of the Commingled Recycling Processing Facility Technical Workgroup.

## Invoicing Options

DEQ's internal project team discussed the question and DEQ now seeks feedback from the technical workgroup on four options relevant to the invoicing of the Contamination Management Fee. These options are as follows:

1. A commingled recycling processing facility can process and market said material at its own expense (will not receive CMF funding for tons handled and sent to market);
2. A commingled recycling processing facility can include in its CMF invoice all tons of covered product contamination processed and marketed, so long as the covered product is desired by the end market and all other standards for reporting and responsible end markets are met. Tonnage is eligible for compensation regardless of whether material is baled separately or mixed in with other USCL material (e.g., PET thermoforms mixed with other PET bottles and containers). CRPF would receive full per-ton funding for said tons;\*
3. A commingled recycling processing facility can include in its CMF invoice all tons of covered product contamination processed and marketed, again so long as the covered product is desired by the end market and all other standards for reporting and responsible end markets are met, but tonnage may only be counted if the non-USCL material is baled separate of other USCL material (e.g., plastic film). CRPF would receive full per-ton funding for said tons; A separate line would need to be added to the invoice that calls out these tons (for reporting purposes).
4. A commingled recycling processing facility can include in its CMF invoice all tons of covered product contamination processed and marketed, again so long as the covered product is desired by the end market and all other standards for reporting and responsible end markets are met, and regardless of whether material is baled separately or mixed in with other USCL material, but will only receive per-ton funding for the handling (e.g., separation, removal) of the material, not the disposal/disposition of material.

**OPTION 4 NOTE:** In the preliminary MRF Fees report issued by Crowe LLP, Crowe noted an initial Contamination Management Fee of \$191/ton. When breaking down that per-ton cost for the purpose of option 4, removal is roughly 55% of the costs associated with the CMF and disposal is 45%. According to Crowe, disposal includes transportation/hauling costs plus landfill tipping fees – the costs to 'dispose' and removal represents an allocation to CMF of all other costs – the costs to 'remove'. However, it should be noted these numbers may change slightly in the final report issued by Crowe.

The CMF broken down looks as such:

Cost of removal – \$105/ton

Cost of disposal – \$86/ton

Thus, if option 4 is selected, CRPFs would receive \$105/ton for all covered product contamination processed and moved to a responsible end market.\*

5. A commingled recycling processing facility can include in its CMF invoice all tons of covered product contamination processed and marketed, so long as the covered product is desired by the 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). CRPF would only receive per-ton funding for the handling (e.g., separation, removal) of the material, not the disposal/disposition of material.

\*For options 2 and 4, CRPFs would need to work with PRO(s) on an agreed upon method to determine how to compensate for weight of covered product contamination mixed in with other USCL materials.

Regardless of option, any materials moved to market would be required to meet responsible end market standards, including disposition reporting. And, if option 2, 3, 4 or 5 is selected, the selection of one of those options will require that an additional line of data be added to the CMF invoicing structure.

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