



# Request for Information

October 8, 2024

## Request for Information: Certifier(s) to Oregon DEQ of Commingled Recycling Processing Facilities Outside of Oregon handling Oregon-Originated Commingled Recyclable Material

The Oregon Department of Environmental Quality is seeking information from entities interested in being a certifier to Oregon DEQ of out-of-state commingled recycling processing facilities handling Oregon-originated commingled recyclable material. **Information is requested by November 8, 2024.** Information will be used by DEQ to develop a list of interested entities that would work with DEQ to help oversee out-of-state CRPFs handling Oregon-originated Uniform Statewide Collection List-related commingled recyclable material, to ensure such facilities are meeting the requirements being developed in accordance with ORS 459A.956. Requirements can also be found in proposed rule language under OAR 340-096-0820 (see Appendix A).

### Background and Context

In 2021, the Oregon Legislature adopted [Senate Bill 582](#), the Oregon Plastic Pollution and Recycling Modernization Act. The Act requires numerous changes that are intended to modernize and stabilize recycling services in Oregon and further reduce the environmental impacts of certain materials across their full life cycle.

ORS 459A.956 requires the Department of Environmental Quality to establish a program or approve a program established by a third party to certify commingled recycling processing facilities located outside of Oregon. DEQ may issue certificates under the program or develop a list of approved contractors to issue certificates. CRPFs must satisfy the requirements of ORS 459A.955 beginning July 1, 2025. And, under ORS 459A.905(2), local governments, service providers and commingled recycling reload facilities may not deliver commingled USCL material to a CRPF located outside of Oregon unless the facility is certified or can certify that it meets the requirements of ORS 459A.955 or 459A.956 without holding a certificate.

DEQ intends to propose draft rules (i.e., OAR 340-096-0820) to the Environmental Quality Commission for consideration and potential adoption in November 2024. Draft rules for implementation of ORS 459A.955 (OAR 340-096-0300, see Appendix B) and 459A.956 will be included with several other rules relating to the Recycling Modernization Act as part of a single, larger rulemaking. For information about RMA implementation projects related to commingled recycling processing facilities, please see DEQ's [dedicated webpage](#). For information about the larger Recycling Modernization Act, please refer to the Act's [main web page](#).

## Request for Information

DEQ is requesting information from entities interested in working with DEQ as a certifier to out-of-state CRPFs handling Oregon-originated, USCL-related commingled recyclable material. In this role, the certifier would work with DEQ in accordance with a regulatory framework established by the department, with the outcome of ensuring facilities are meeting the requirements established under proposed OAR 340-096-0820 (see Appendix A), most notably the performance standards related to capture rates and outbound contamination rates and the periodic assessments the certifier would oversee (on DEQ's behalf) to ensure a facility's compliance with those performance standards. More information on the periodic assessments can be found in the proposed rule language under OAR 340-096-0820(6).

Respondents are asked to provide information detailing past experiences working with a commingled recycling processing facility or other type of material recovery facility. All responses should clearly identify the contact name, phone number, and email address of the submitter so that DEQ can follow-up in the event that additional information is requested.

Please submit all responses via email to [justin.gast@deq.oregon.gov](mailto:justin.gast@deq.oregon.gov). Responses should be submitted by midnight (Pacific time) on **November 8, 2024**. DEQ may be able to consider information submitted after that deadline, but strongly encourages potential respondents to submit as much information as available by that date.

## How Information May Be Used

DEQ will review submitted materials and, as a next step, may request additional information of any respondent.

**All information transmitted to DEQ through this process will become a public record and will be subject to Oregon's public records laws.** Respondents should not share information that is considered proprietary or confidential in nature.

Potential respondents should provide evidence and documentation and submit responses that are accurate. Speculation, if any, should be clearly noted. If respondents believe that submitted information is likely to change in the near future, please describe both the current state of affairs as well as the predicted change, including anticipated dates and reasons for it.

## Questions

For questions regarding this Request for Information, please email DEQ's project manager for implementation of rules related to CRPFs under the Recycling Modernization Act, Justin Gast: [justin.gast@deq.oregon.gov](mailto:justin.gast@deq.oregon.gov)

## Alternate formats

DEQ can provide documents in an alternate format or in a language other than English upon request. Call DEQ at 800-452-4011 or email [deqinfo@deq.state.or.us](mailto:deqinfo@deq.state.or.us).

## APPENDIX A

**OAR 340-096-0820 - DRAFT**

### **Commingled Recycling Processing Facility Certification Program**

(Draft rule language posted on May 30, 2024 for public comment)

- (1) In accordance with ORS 459A.905(2)(a)(B), a local government, the local government's service provider or a commingled recycling reload facility may only deliver to a commingled recycling processing facility located outside of this state commingled recyclables that were collected pursuant to the uniform statewide collection list established under ORS 459A.914 if the commingled recycling processing facility is certified pursuant to this rule or can certify that it meets the requirements of ORS 459A.955 or 459A.956, even though the facility does not hold a certificate
- (2) In any given calendar year, the requirement for a certification in Section (1) only applies to an out-of-state commingled recycling processing facility that has accepted at least 280 tons of commingled recyclable material that originated in this state in that calendar year.
- (3) A commingled recycling processing facility may obtain a third-party certification from an entity on a list approved by DEQ pursuant to Section (4) or a commingled recycling processing facility may self-certify that it meets the certification requirements of this rule.
- (4) DEQ shall develop a list of approved third parties to issue certificates.
- (5) Certification Standards. A commingled recycling processing facility that requires certification pursuant to Section (2) must meet the requirements of ORS 459A.955(2) and OAR 340-096-0300(3), (4), and (5) to be certified under this rule. A commingled recycling processing facility shall demonstrate meeting those requirements as follows:
- (a) for the requirements of ORS 459A.955(2)(d) and (e) by complying with all relevant requirements of the jurisdiction where it is located.
- (b) the requirements of ORS 459A.955(2)(f) apply to all inbound materials originating from this state.
- (c) For capture rates and outbound contamination standards, as described in ORS 459A.955(2)(a) and (c) and OAR 340-096-0300(2)(a), the amount of material assessed will be the percentage of the total tons of inbound commingled recyclable material that originated from this state in the last calendar year. The percentage requirement must be determined separately for each commodity marketed by the commingled recycling processing facility.
- (d) For responsible end market disposition and reporting requirements under ORS 459A.955(2)(b) and (h) and OAR 340-096-0310(2) the amount of material assessed will be the same percentage calculated for that commodity under subsection (c).

- (6) A commingled recycling processing facility certified under this rule must receive periodic assessments of compliance with capture rates and outbound contamination requirements as provided by this Section.
- (a) For the purposes of this section, “conventional evaluation method assessment” means the manual sorting of material, whether the material to be sorted is in loose or baled form, to determine a facility’s compliance with the capture rate and outbound contamination rate performance standards.
- (b) For the purposes of this section, “alternative evaluation method assessment” means the use of a method other than manual sorting of material, to determine a facility’s compliance with the capture rate and outbound contamination rate performance standards. An example of such a method is use of artificial intelligence technology.
- (c) A commingled recycling processing facility must contract with a DEQ-approved third-party certifier to conduct periodic assessments using a methodology established by DEQ. Such assessments shall meet the requirements established under OAR 340-096-0300(3)(c)(d)(e) and (g) and as provided by this section.
- (d) The percentage of material assessed will be the percentage of the commingled recycling processing facility’s total annual tonnage that originated from this state. The commingled recycling processing facility will be responsible for selecting the percentage of loose material or bales to be sorted by the third-party certifier or a contractor to the third-party certifier.
- (e) A third-party certifier, or a contractor to a third-party certifier, may use one or more sampling events to evaluate compliance with performance standards and to determine a commingled recycling processing facility’s capture rate across all commodities and the average outbound contamination rate.
- (f) 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 of any required follow-up sampling assessments.
- (g) DEQ will arrange and be responsible for costs related to the first unannounced conventional evaluation method assessments conducted by a third-party certifier or a contractor to a third-party certifier. If the assessment determines the commingled recycling processing facility is fails to meet the established performance standards for capture rates and outbound contamination, follow-up assessments will be undertaken, in accordance with protocols and a schedule to be approved by DEQ. The commingled recycling processing facility shall implement the follow-up assessment in accordance with the DEQ approved protocols and schedule. All follow-up assessments will be subject to observation by a third-party certifier.
- (7) Material Disposition Reporting. A service provider or a commingled recycling reload facility that transports materials collected pursuant to the uniform statewide collection list established under ORS 459A.914 to a commingled recycling processing facility located outside of this state that meets the requirements of this rule must obtain material disposition information from that facility for the materials that originated in this state. A service provider or a commingled recycling reload facilities shall report such information to DEQ on a schedule consistent with OAR 340-096-0310(2)(a)(B).
- (8) The requirements of this rule are effective on July 1, 2025

**Statutory/Other Authority: ORS 459A.905**

**Statutes/Other Implemented: ORS 459A.905**

## **APPENDIX B**

**OAR 340-096-0300** - DRAFT

### **Commingled Recycling Processing Facilities and Limited Sort Facilities**

(Draft rule language posted on May 30, 2024 for public comment)

(1) Applicability.

(a) This rule applies to all commingled recycling processing facilities and limited sort facilities. Such facilities are disposal sites as defined by ORS Chapter 459 and 459A and are also subject to the requirements of OAR chapter 340, divisions 90, 93, 95 and 97 as applicable.

(b) Beginning on July 1, 2025, no person may construct or operate a commingled recycling processing or limited sort facility except as provided in this rule.

(c) A commingled recycling processing facilities must comply with all requirements in this rule.

(d) A limited sort facility must comply with all requirements in this rule except (3)(a) capture rate.

(e) A commingled recycling processing facility or limited sort facility, possessing an active solid waste disposal site permit and in operation before July 1, 2025, that submitted materials required by OAR 340-093-0050 and OAR 340-093-0070 for a new disposal site permit by February 1, 2025, may continue in operation pending a determination by the department and issuance of a disposal site permit.

(2) Permit eligibility (a) A commingled recycling processing facility must:

(A) Receive source separated commingled recyclable material that is collected commingled from a collection program providing the opportunity to recycle, per ORS 459A.863(3)(a)(A);

(B) Presort bulky recyclable and non-recyclable material, removing such material from the commingled stream being processed; and

(C) Separate all remaining materials into two streams, one of which is predominantly fiber and one of which is predominantly non-fiber containers, producing streams of materials that are intended for use or further processing by others; and

(D) For materials in the fiber stream, further separate and transport to a responsible end market no less than 95% of the recoverable uniform statewide collection list-related fiber in the stream.

(b) A facility that does not meet the requirements of Subsection (a) of this Section is not eligible for a commingled recycling processing permit but may be a limited sort facility provided that it meets the requirements of OAR 340-093-0030(65)(b).

(3) Recyclable Material Processing Performance Standards



(a) Capture rate

(A) A commingled recycling processing facility must sort all Uniform Statewide Collection List material in OAR 340-0090-0630 so that material does not become contaminants in other waste streams.

(B) A commingled recycling processing facility must comply with the material capture rates established in the Material Capture Rate table (see below table) A commingled recycling processing facility can achieve a capture rate either by capturing the material at its own facility or directing material to a facility (for secondary processing) that achieves the capture rate, or some combination of the two.

(C) The Department will conduct periodic assessments to determine compliance with the capture rates performance standard, as described in Section (3)(a)(B) of this rule.

(b) Outbound contamination

(A) All Uniform Statewide Collection List material in OAR 340-0090-0630, sent to a responsible end market must not contain more than 5% contamination, as defined in ORS 459A.863(4)(b), by weight.

(B) The Department may conduct periodic assessments to determine compliance with the outbound contamination rate, as described in Section (3) of this rule.

(4) Responsible end market

(a) All material listed on the Uniform Statewide Collection List in OAR 340-0090-0630(2) that has been processed, and material handled in accordance with OAR 340-090-0830(4), must be sent to a responsible end market.

(b) Commingled recycling processing facilities and limited sort facilities must comply with all responsible end markets requirements established under OAR 340-096-0310.

(5) Assessment of Capture Rates and Outbound Contamination

(a) For the purposes of this section, "conventional evaluation method assessment" means the manual sorting of material, whether the material to be sorted is in loose or baled form, to determine a facility's compliance with the capture rate and outbound contamination rate performance standards.

(b) For the purposes of this section, "alternative evaluation method assessment" means the use of a method other than manual sorting of material, to determine a facility's compliance with the capture rate and outbound contamination rate performance standards. An example of such a method is use of artificial intelligence technology.

(c) Each permitted commingled recycling processing facility must undergo at least one unannounced conventional evaluation method assessment within the first 2.5-year program plan period, with that assessment sampling material from each of the established capture rate-related commodities categories. For each subsequent five-year program plan period, each processing facility must undergo at least two unannounced

conventional evaluation method assessments. A DEQ-approved alternative evaluation method assessment may be used to substitute for one of the conventional evaluation method assessments. If a commingled recycling processing facility utilizes a DEQ-approved alternative evaluation method assessment for data-generation purposes, the facility must still perform at least one unannounced conventional evaluation method assessment within each five-year program plan period, for comparative data purposes.

(d) At any point, a commingled recycling processing facility can request the use of an alternative evaluation method. If a facility is to use an alternative evaluation method to provide data to DEQ, the processor must perform a comparison study to demonstrate that the alternative evaluation method produces similar or better data than the conventional evaluation method. The comparison study, including comparison methodology, must be reviewed and approved by DEQ. The commingled recycling processing facility is responsible for covering the costs associated with the undertaking of such a comparison study.

(e) For all assessments undertaken, material samples to be assessed will be pulled from the material stream as it enters the commingled recycling processing facility's balers or from finished bales.

(f) DEQ, or a contractor to DEQ, may use one or more sampling events to evaluate compliance with performance standards and to determine a commingled recycling processing facility's capture rate across all commodities and the average outbound contamination rate.

(g) A commingled recycling processing facility must make material available for on-site or off-site assessment. DEQ, or a contractor to DEQ, must be on-site to observe selection of material to be assessed. If baled material from a permitted commingled recycling processing facility is to be assessed, DEQ, or a contractor to DEQ will select the bales to be assessed, not the processor.

(h) If multiple site visits are necessary to assess compliance with the capture rate and outbound contamination rate-based performance standards, DEQ will determine the need and schedule for those follow-up sampling assessments. Processing facilities must cover costs associated with any follow-up assessments, in accordance with protocols approved by DEQ. All follow-up assessments will be subject to observation by DEQ.

#### (6) Plans and Specifications

(a) Plans and specifications for a commingled recycling processing facility shall include, but not be limited to, the location and physical features of the facility such as contours, surface drainage control, access and on-site roads, traffic routing, landscaping, weigh stations, fences and specifications for solid waste handling equipment, truck and area washing facilities and wash water disposal, and water supply and sanitary waste disposal.

(b) Inbound and outbound contamination levels. In addition to describing normal facility operations, the facility operations plan must include, among other things, a description of how the facility will implement the forms and procedures established by the DEQ for evaluating and describing levels of inbound and outbound contamination as required by ORS 459A.955. The facility operations plan must be submitted to the DEQ for approval.

#### (7) Design and Construction

- (a) The design and construction of all facilities must be in accordance with standards in this rule and must be approved by the Department.
- (b) Wastewater Discharges. There must be no discharge of wastewater or leachate to waters of the state except in accordance with a permit from the Department, issued under ORS 468B.050;
- (c) Groundwater. Commingled recycling processing facilities must not cause an adverse impact to groundwater under OAR 340 Division 40.
- (d) Access Roads. All weather roads must be provided from the public highways or roads, to and within the disposal site and shall be designed and maintained to prevent traffic congestion, traffic hazards and dust and noise pollution;
- (e) Drainage. The site must be designed such that surface drainage will be diverted around or away from the operational area of the site;
- (f) Fire Protection. Fire protection must be provided in accordance with plans approved in writing by the Department and in compliance with state and local fire regulations;
- (8) Operations
- (a) All facilities must be operated to meet the following standards.
- (b) Storage:
- (A) All solid waste deposited at the site must be confined to the designated dumping or storage area;
- (B) Accumulation of solid wastes must be kept to minimum practical quantities.
- (c) Nuisance Conditions
- (A) Blowing debris must be controlled such that the entire disposal site is maintained free of litter;
- (B) Dust, malodors and noise must be controlled to prevent air pollution or excessive noise as defined by ORS Chapters 467 and 468A and rules and regulations adopted pursuant thereto.
- (d) Health Hazards. Rodent, bird and insect control measures must be provided, sufficient to prevent vector production and sustenance. Any other conditions which may result in transmission of disease to man and animals must be controlled;
- (e) Recordkeeping and Reporting.
- (A) All facilities must maintain records and submit reports to the Department as required by the Department demonstrating compliance with conditions of a permit, ORS 459, ORS 459A or OAR Chapter 340, Divisions 90 and 93 through 97.



(B) All facilities must maintain records in accordance with Department established procedures and provide reports to the Department as required, including record keeping and reporting for waste acceptance, waste disposal, capture rates, outbound contamination levels and responsible end markets.

(C) In the case of a change in ownership of the permitted facility, the new permittee is responsible for ensuring that the records are transferred from the previous permittee and maintained for the number of years required by the department.

**Statutory/Other Authority: ORS 459A.955 & 459A.956**

**Statutes/Other Implemented: ORS 459A.955 & 459A.956**

**Table A: Commingled Recycling Processing Facility Permit Material Capture Rates**

Fiber	July 1, 2025 Rate	Jan. 1, 2028 Rate
Cardboard (includes kraft paper)	96%	97%
Printing and writing paper (includes newspaper, packaging tissue paper, telephone directories, nonmetallized giftwrap, paperboard, magazines, catalogs and similar glossy paper, paperback books and molded pulp packaging)	96%	97%
Cartons	78%	88%

Plastic	July 1, 2025 Rate	Jan. 1, 2028 Rate
PET bottles and containers, excluding thermoformed containers (measuring at least 2 inches in at least 2 dimensions up to 2 gallons)	85%	93%
PET thermoformed containers	85%	93%
HDPE bottles and containers (measuring at least 2 inches in at least 2 dimensions up to 2 gallons)	88%	95%
HDPE and PP tubs & pails (2 to 5 gallons) and PP bottles and containers (measuring at least 2 inches	83%	93%

**NOTE:** For materials added to the USCL after the rulemaking period #2 rules have been adopted, the capture rate would be 75% until the capture rate for those specific materials could be addressed in a subsequent rulemaking.