

# **Covered Product Exemption under ORS 459A.869(13)**

**Oregon Department of Environmental Quality  
Extended Producer Responsibility packaging law  
February 4, 2025**



# WEBINAR OVERVIEW

- Recycling Modernization Act Updates
- ORS 459.869A(13) Exemption Overview
  - Background Information
  - Overall approach
  - Passive and limited-active claims
  - Active claims
  - Claim form
  - Timeline
- Q&A



# TODAY'S SPEAKERS



**Nicole Portley**  
Program Plan Lead  
Oregon DEQ



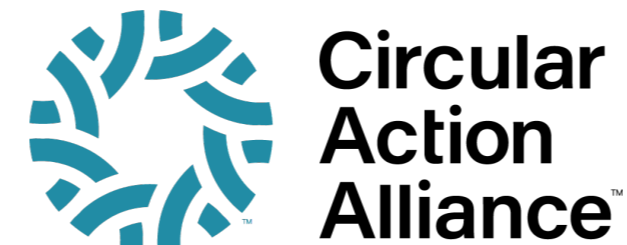
**Justin Gast**  
Natural Resource Specialist  
Oregon DEQ



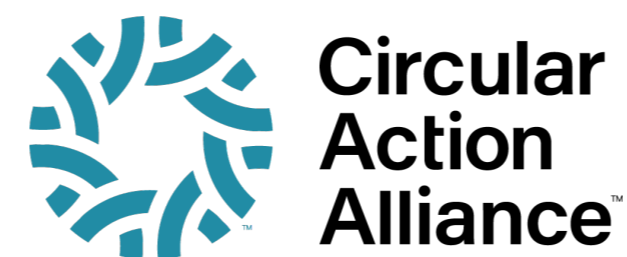
**Jessica Branom-Zwick**  
Director and Partner,  
Cascadia Consulting



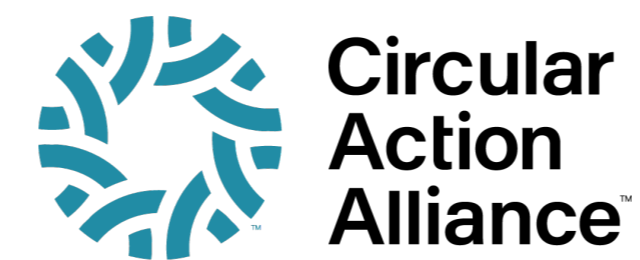
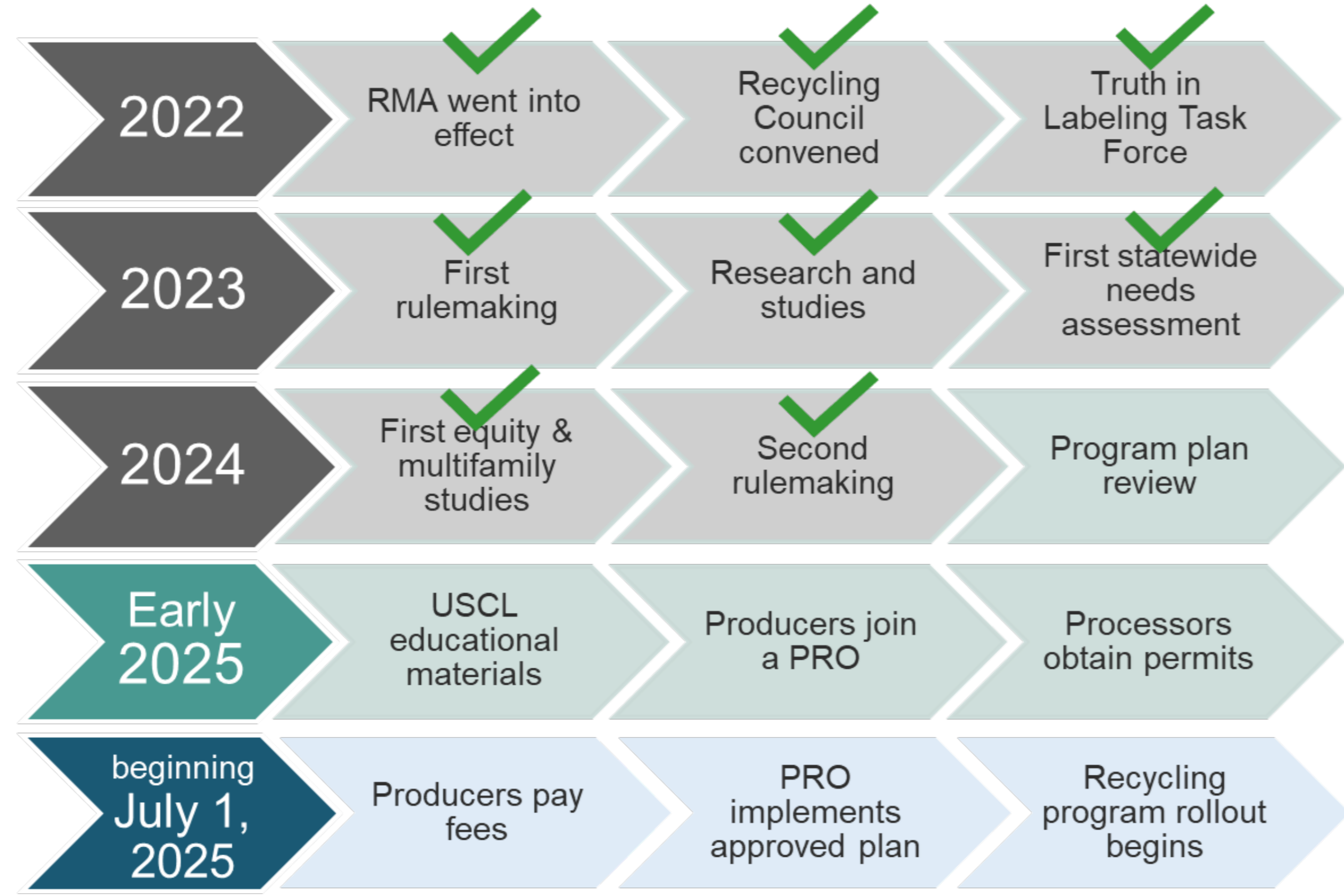
**Geoffrey Inch**  
Senior Vice President  
Producer Services, CAA



# RECYCLING MODERNIZATION ACT (RMA) UPDATE



# WHERE WE ARE IN THE TIMELINE



# KEY DATES FOR PRODUCERS

CAA producer  
working group join  
date  
July 2024

Likely PRO plan  
approval  
Early 2025

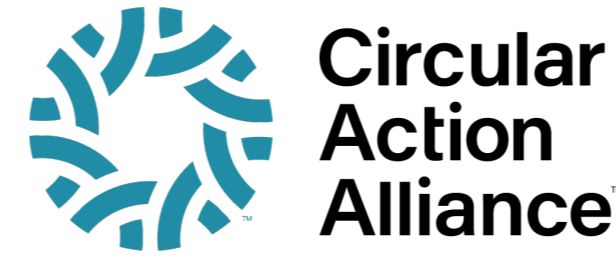
Producer  
pre-registration  
Mar. 31, 2025

PRO plan due  
Mar. 31, 2024

PRO plan start  
date  
Jul. 2025

# CAA's Producer Readiness Resources

- Register today!
- Producer Guidance - new updates in Jan '25 including
  - Covered Materials & Producer Definitions
  - Preparing to Report Your Supply Data
  - Oregon Reporting Category Definitions, Examples & Reporting Tips
  - Oregon 2025 Report Preparation Workbook
- Producer Webinar Series - updated 2025, sessions every week
  - 100 series - Onboarding, Registration, and Fee-setting overviews
  - 200 series - Portal demo and training
  - 300 series - Reporting workshops and Q&As
- Dedicated email help desk
  - [producer.support@circularaction.org](mailto:producer.support@circularaction.org)



## Registration Form



Circular Action Alliance (CAA) is the Producer Responsibility Organization (PRO) approved to implement Extended Producer Responsibility (EPR) laws for paper, packaging and foodservice ware in California and Colorado, and the only PRO submitting a program plan in Oregon.

### Registration Requirement:

- To comply with producer registration requirements in California's, Colorado's and Oregon's EPR laws for paper, packaging and foodservice ware, producers must register with CAA, unless the producer intends to submit an individual compliance plan, under applicable law.
- Any company that expects to be considered a producer under California, Colorado, and/or Oregon's paper, packaging and foodservice ware EPR laws, and which is not otherwise exempt from registration under those laws, must complete this form as part of the producer registration process with CAA.



# 869(13) EXEMPTION

# WEBINAR OBJECTIVES

You should leave this webinar understanding:

- The purpose of the 869(13) exemption
- What material qualifies for this exemption
- The process for claiming and receiving this exemption
- Why are we proposing this process?
- How to starting filling out the claim form



# EXEMPTIONS

- What is an exemption from “covered product” under the Recycling Modernization Act?
- 869(13) exemption was included in the Act to exempt products that do not impose program costs on the PRO due to being recycled outside of the commingled system.



# BACKGROUND INFORMATION

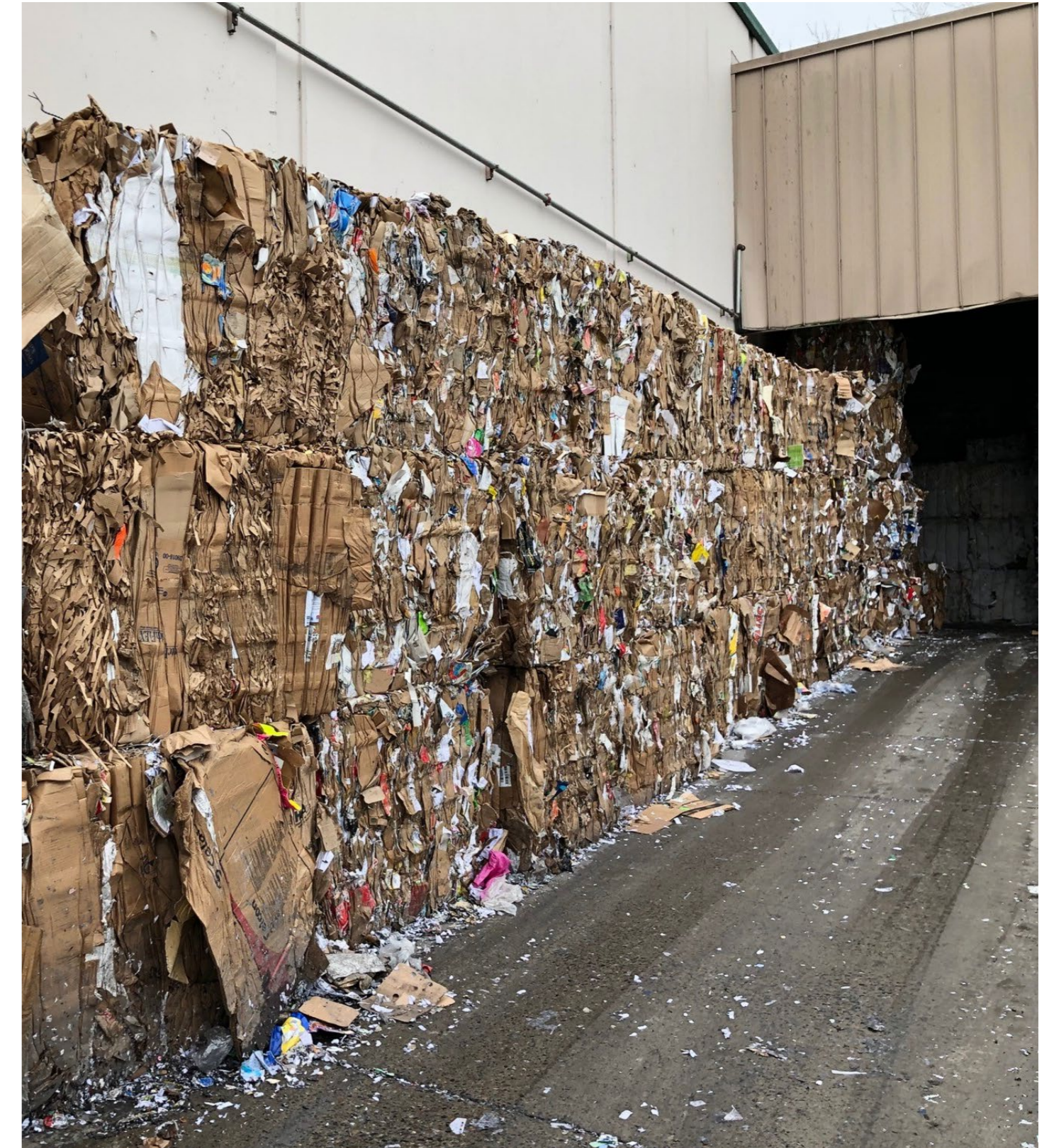


# ORS 459A.869(13)

(a) A producer may demonstrate to the department that a material is exempt from the requirements for a covered product if the material:

- (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.

(b) If only a portion of the material sold in or into this state by a producer meets the criteria of paragraph (a) of this subsection, the portion that meets the criteria is exempt and the portion that does not meet the criteria is a covered product.



# OAR 340-090-0840(3)



(a) Collection services not provided under [OTR] include but are not limited to the following:

(A) Any collection from a commercial generator that is not used by a local government to comply with [OTR], including:

(i) Commercial generators collecting and sending materials directly to end markets and exempt from the requirements of [OTR] per ORS 459A.075; and

(ii) Collection points that accept materials from consumers and send them directly to end markets.

(B) Any collection of materials from residential generators that is not used by a local government to comply with [OTR] and that does not send materials to a [CRPF] before they go to end markets.

# OAR 340-090-0840(3)

(3)(b) Separation means separation of two or more commingled materials from one another or removal of contamination from a material that was collected source segregated.



# OAR 340-090-0840(3)



(c) A material is recycled at a responsible end market if the end market has been verified as responsible by a producer responsibility organization or third-party certified

(d) Materials collected through a recycling collection service provided under ORS 459A.896(1) and used by a [PRO] to satisfy the convenience standards are not eligible for the exemption.

# OVERALL APPROACH



# How materials get to an end market



Discarded material goes from the generator directly to a responsible end market



Discarded material is collected, baled at a CRPF, and sent to a responsible end market



Discarded material is collected, baled at a CRPF, passed through a broker and sent to a responsible end market

# OUR PRINCIPLES

- DEQ is implementing the statute and rules.
- Where possible and for priority materials, a simplified claim option is being provided for producers.
  - Balancing needs: fairness, ease, efficiency.
- CAA and DEQ are actively collaborating with appropriate roles.
  - Producers demonstrate that their material qualifies (makes claims) to DEQ.
  - CAA allocates exemptions to producers.



# HOW WE GOT HERE



- Project implementation began immediately after rulemaking concluded in Nov 2024, with a view to applying the exemption retroactively starting in 2026.
- The process has since been accelerated to deliver on requirements and accommodate the producer desire for exemptions starting from 2025.

# DEQ'S MATERIAL RECOVERY SURVEY

- Established by SB 66 (1991 - 459A.050(6))
- Survey is sent to all collection service providers and private recycling companies who handle post-consumer recyclable material (including in-state end markets).
- Best resource to determine pool tons for passive approach.



# PASSIVE, LIMITED-ACTIVE, OR ACTIVE CLAIMS

	Must submit DEQ form?	Must demonstrate eligibility?	Material Reporting Categories
<b>Passive claim</b>	✗	✗	<ul style="list-style-type: none"> <li>• Corrugated Cardboard (Tertiary/Transport) non-consumer</li> <li>• HDPE (#2)/LDPE (#4) (Pallet Wrap) non-consumer</li> </ul>
<b>Limited-Active claim</b>	✓	✗	Printer/copier paper that is shredded <ul style="list-style-type: none"> <li>• Paper for General Use</li> <li>• Other Printed Materials</li> </ul>
<b>Active claim</b>	✓	✓	Any material reporting category, including those listed above

# PASSIVE AND LIMITED-ACTIVE CLAIMS



# PASSIVE AND LIMITED-ACTIVE CLAIMS

	Must submit DEQ form?	Must demonstrate eligibility?	Material Reporting Categories
<b>Passive claim</b>	✗	✗	<ul style="list-style-type: none"> <li>• Corrugated Cardboard (Tertiary/transport) non-consumer</li> <li>• HDPE (#2)/LDPE (#4) (Plastic film) non-consumer</li> </ul>
<b>Limited-Active claim</b>	✓	✗	Printer/copier paper that is shredded <ul style="list-style-type: none"> <li>• Paper for General Use</li> <li>• Other Printed Materials</li> </ul>

# WHAT TO DO



- Passive: Producers/retailers report pounds to CAA.
- Limited-Active: Fill out minimal portions of the claim form:
  - Producer Info tab
    - Producer identifying information
    - Total quantity of material reporting category supplied
    - Quantity of material supplied

# CALCULATION OF POOL VOLUMES

- Data taken from DEQ's Material Recovery Survey.
- Most recent year of complete data for a material is used.
  - OCC (2022, with adjustment)
  - Plastic film (2022, no adjustment)
  - Shredded paper (2023, no adjustment)



# PRELIMINARY POOL VOLUMES\*



- OCC tertiary/transport packaging: 228,175 tons\*
- Plastic film: 7,936 tons\*
- Shredded paper: 9,916 tons\*+

*\* subject to decrease based on responsibility verification of end market.*

*+ subject to increase through producer provision of additional data.*

# INCREASING SHREDDED PAPER POOL

- Document shredding companies DEQ has MRS data from:
  - Access Document Management
  - Docutrak
  - Graf Paper Salvage
  - Iron Mountain
  - Isecure Inc
  - Northstar Recycling
  - Paper Chase Recycling
  - Shred-It
- Process whereby producers could increase the pool through better data.
  - Action: email [justin.gast@deq.oregon.gov](mailto:justin.gast@deq.oregon.gov) to provide appropriate data.
  - Deadline: March 6, 2025



# ACTIVE CLAIMS

# Active Approach

	Must submit DEQ form?	Must demonstrate eligibility?	Material Reporting Categories
Active claims			Any material reporting category, including those with passive and limited-active claim options.

# CAA's Allocation of Approved Exemptions

**Producers must report the gross supply weights to CAA by March 31, 2025** as part of their base supply report, even if they are seeking an active or passive exemption under ORS 459A.869(13).

"Gross supply weight" is the total supply of covered product to the Oregon market, including any covered product that is potentially eligible for an exemption under ORS 459A.869(13).

	Steps to Allocate Approved Exemptions
Active claims	<ul style="list-style-type: none"><li>• For each producer claim, DEQ will provide the total approved exempted supply weights to CAA</li><li>• Any DEQ-approved active claims will be subtracted from a producers gross supply, thus fees will only be paid on net supply weights after the active exemption</li><li>• Producer exemptions <b>cannot</b> exceed the supply weights for the producer in that specific reporting category</li></ul>
Passive claims	<ul style="list-style-type: none"><li>• For materials eligible for passive claims, DEQ will then provide CAA the remaining pooled exempted supply weights after approving all active claims</li><li>• CAA will allocate the remaining pooled exempted supply weights to producers based on their proportion of total supply weights in each eligible material reporting category (i.e. Corrugated cardboard Tertiary/Transport and HDPE/LDPE Film Tertiary/transport)</li></ul>

# Process Timeline

- Active claims due COB March 7th.
  - 2/11 and 2/25 drop-in sessions. More info at <https://www.oregon.gov/deq/recycling/Pages/RMA-Exemptions.aspx>
  - Send complete forms to [product.exemption@deq.orgon.gov](mailto:product.exemption@deq.orgon.gov)
- DEQ will evaluate all claims between March 10 and April 30.
  - REM self-attestation may continue to occur during this time.
- DEQ will provide CAA its determinations on May 1st.



# DEQ Claim Form

*(for Limited-Active & Active Claims)*

# Claim Type Selection

## Passive

No Form Required

- I supply and want to claim exemption for **Corrugated Cardboard (Tertiary/transport)** (non-consumer) or **HDPE (#2)/LDPE (#4) (Pallet Wrap)** (non-consumer).
- I will report the gross supply weight of these specific materials to CAA.
- I don't have or don't want to compile the details required for the full active method.

## Limited-Active

Form Required (Tabs 1-2)

- I supply and want to claim exemption for **printer/copier paper under (1) Paper for General Use or (2) Other Printed Materials.**
- I can report the gross supply weight of these specific materials (Tab 2B).
- I don't have or don't want to compile the details required for the full active method.

## Full Active

Form Required (Tabs 1-5 or 1-6)

- I supply and want to claim exemption for **any type of covered material** (including **Corrugated Cardboard (Tertiary/transport)** (non-consumer), **HDPE (#2)/LDPE (#4) (Pallet Wrap)** (non-consumer) & **printer/copier paper**).
  - I can report the gross supply weight of these specific materials (Tab 2).
  - I can substantiate the details needed for the full active method.
- Requirements (Tabs 3-5):** I can show and substantiate
- Which companies collected the materials for recycling and that they didn't collect it under OTR.
  - That the materials never underwent separation at a CRPF.
  - That the materials were received by a responsible end market.
- Extra requirement for full active claim with third-party arrangers (Tab 6):**
- If I didn't arrange for the recycling described above, I can identify and substantiate who did the arranging and how much of the material they recycled was supplied by me.

# Active Claim Form Outline

Tabs	Description	Limited Active	Full Active (self-arranger)	Full Active (third-party arranger)
0 Start Here	Overview, how to submit, available resources, table of contents	Read only	Read only	Read only
1 Producer	Producer identification and contact information	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>
2 Supply	Gross supply weights into Oregon	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>
3 Collector	Eligibility details for collection or transportation service providers	No	<b>Yes</b>	<b>Yes</b>
4 End Market	Eligibility details for end markets	No	<b>Yes</b>	<b>Yes</b>
5 Exemption	Quantities by material showing eligibility for all criteria	No	<b>Yes</b>	<b>Yes</b>
6 Arranger	For producers who did not arrange for the recycling: information showing who arranged for recycling of the material	No	No	<b>Yes</b>
7 Summary	Summary of the claim with flags for data entry errors	Read only	Read only	Read only

# Full Active Claim: Two Types

Producer who arranges for recycling of their supplied material

**Fill out tabs 1B-5B**

Examples:

- **Producer with retail sites or distribution centers** that recycle tertiary/transport cardboard or pallet wrap\*
- **Producer funding TerraCycle collection** of their branded material

## What's the difference?

Level of detail required: producers who do NOT arrange for recycling must also report who arranged for recycling and where material was collected from (6B Arranger tab).

Producer who DOES NOT arrange for recycling of their supplied material

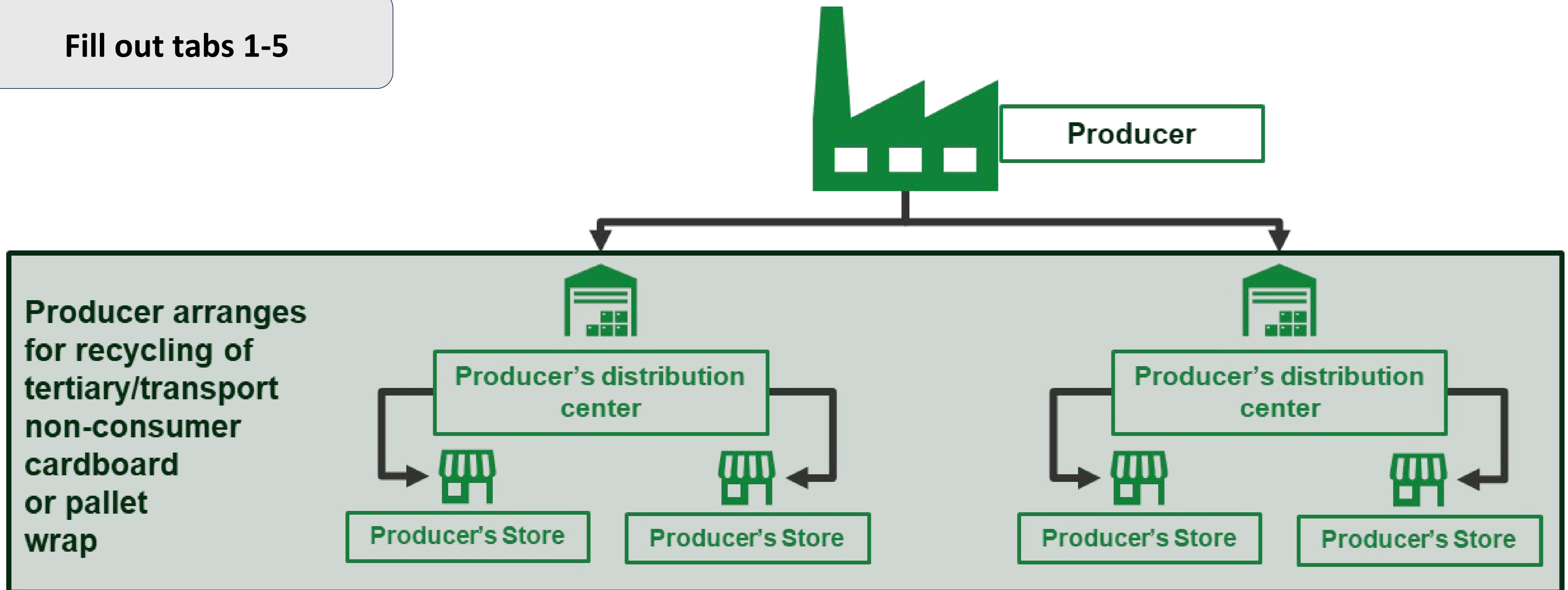
**Fill out tabs 1B-5B and tab 6B**

Examples:

- **Paper manufacturer** of printer/copier paper or paper used for documents whose customers recycle through document shredding
- **Appliance manufacturer** whose customers or logistics company recycles their primary cardboard
- **Producer without retail sites or distribution centers**, whose transport cardboard or pallet wrap are removed and recycled by third-party distribution centers or retailers

# Producer with distribution and/or retail sites (arranges for recycling)

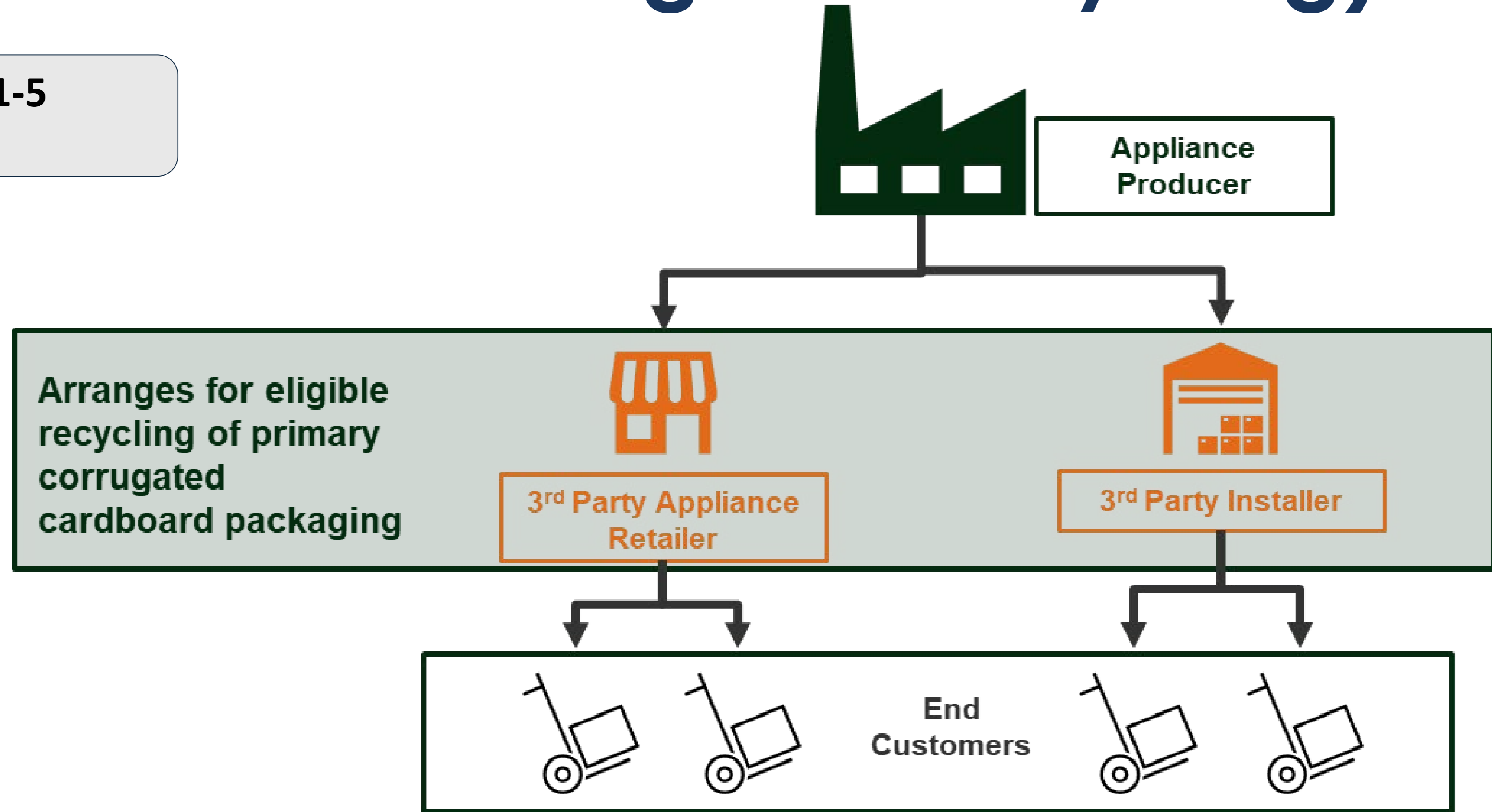
Fill out tabs 1-5



# Appliance Manufacturer with Third-Party Installers

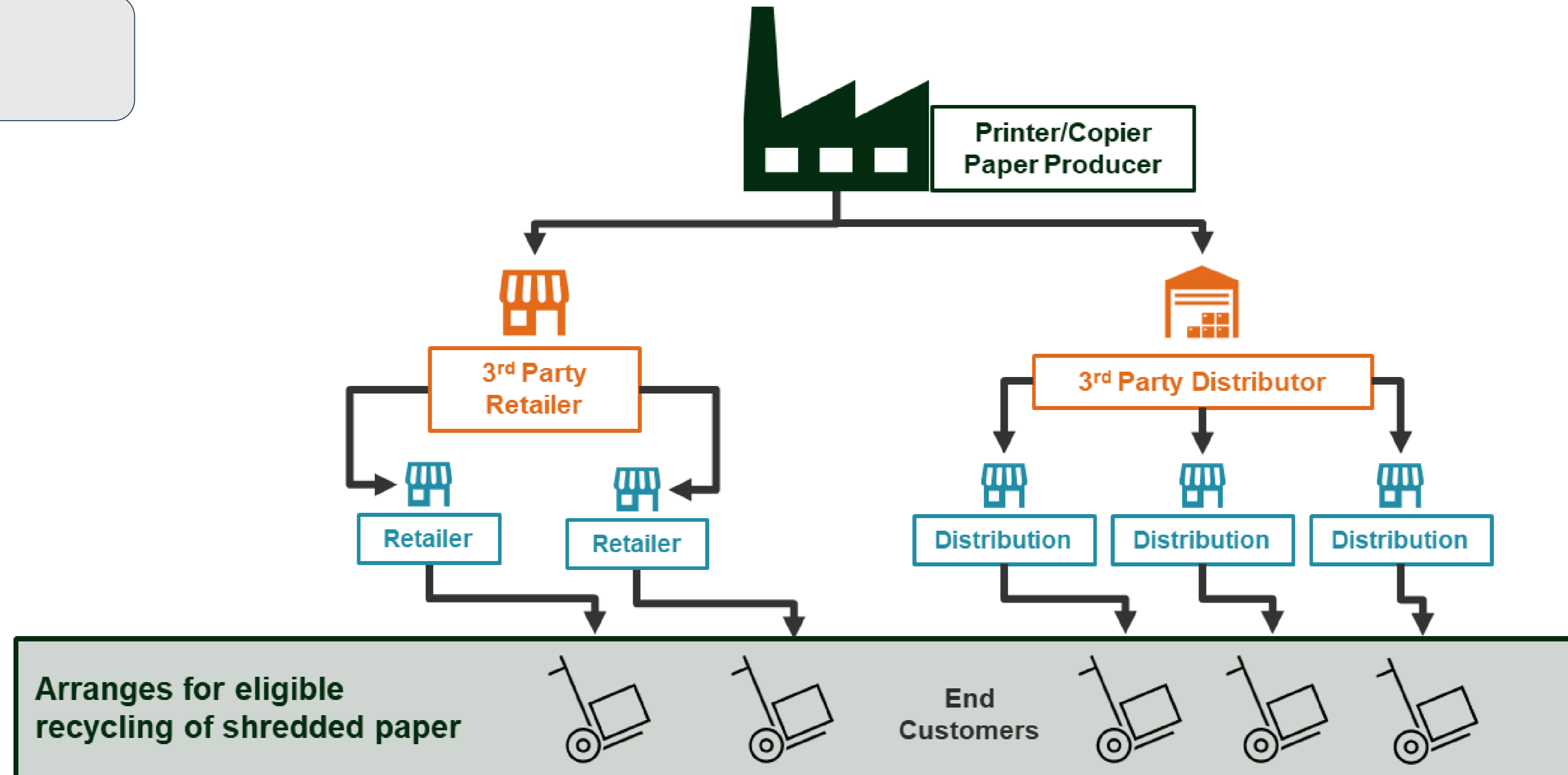
(does not arrange for recycling)

Fill out tabs 1-5  
and tab 6



# Printer/Copier Paper Producer (does not arrange for recycling)

Fill out tabs 1-5  
and tab 6



# 1 Producer & 2 Supply Tabs

## 1 Producer Info

- Producer name
- EIN or TIN
- Contact information

## 2 Gross Supply Weight

- Material reporting category
- 2024 Gross supply weight
  - Total for material reporting category
  - Also for printer/copier paper if using limited claim
- Active claim type (limited or full)

### Why these tabs first?

Input details on producer and the gross supply of materials, so they are available for dropdown lists and error checking on later tabs.

# 3 Collector & 4 End Market Tabs

## 3 Collection and Transportation Service Providers

- Service provider name
- Service provider type:
  - Backhaul or self-haul
  - Non-OTR service provider
  - OTR service provider\*
- If not back/self-hauled:
  - Service provider contact information

*\* Note: OTR service providers may also provide non-OTR service that meets the criteria under ORS 459A.869(13)(a)(A).*

## 4 End Markets

- Material reporting category
- End market name
- If not known to DEQ:
  - End market contact information
  - Responsible end market self-attestation form

### **Why these tabs separate?**

Input details on the collection service providers and end markets that handle your materials, so they are pre-filled for easy selection on the 5 Exemption tab.

# 5 Exemption Claim Tab

Table Section	Purpose	Information Needed
Material & pounds	Requirement under ORS 459A.869(13)(b)	<ul style="list-style-type: none"> <li>• Material reporting category</li> <li>• Pounds recycled (total and supplied by producer)</li> </ul>
Recycling arranger & Collection (non-OTR service)	Requirement under ORS 459A.869(13)(a)(A)	<ul style="list-style-type: none"> <li>• Who arranged collection (producer versus third-party)</li> <li>• Collection company</li> <li>• Whether service was under OTR</li> <li>• Documentation for pounds collected by this service</li> </ul>
CRPF (non-separation at CRPF)	Requirement under ORS 459A.869(13)(a)(B)	<ul style="list-style-type: none"> <li>• Whether a CRPF ever handled the material</li> <li>• If so, which CRPF and whether it performed separation on the material</li> </ul>
End Market (responsible end market)	Requirement under ORS 459A.869(13)(a)(C)	<ul style="list-style-type: none"> <li>• Which end market the materials were sent to</li> <li>• Documentation of pounds sent to this end market</li> </ul>

# Documentation for 5 Exemption Tab

## Documentation of Collector Tons

**What:** An invoice, report, or statement

**From:** the collection or transportation service provider

### Attesting:

- to the 2024 pounds collected by the service provider from the recycling arranger by material type
- that these materials were not collected under OTR service

## Documentation of End Market Tons

**What:** an invoice, report, or statement

**From:** the collector, CRPF, broker, or end market that handled the material

**Attesting:** to the 2024 pounds accepted by this end market from the recycling arranger by material type

# 6 Arranger Tab

## for third-party recycling arrangers

Table Section	Purpose	Information Needed
Claim from 5B	Connect tab 5 to tab 6	Associated claim ID from the 5 Exemption tab
Recycling arranger	Identify who arranged for collection meeting ORS 459A.869(13)(a)(A)	Arranger name and contact information
Recycled pounds supplied by producer	Identify pounds supplied by producer for ORS 459A.869(13)(b)	Pounds supplied by the producer that this arranger recycled

# 7 Summary Tab

- Submission instructions
- Summary of data entry errors from across all tabs
- Summary:
  - Gross supply weight from tab 2 Supply
  - Pounds claimed for exemption in tab 5 Exemption

## Data Entry Error Summary

### 2B Supply

0	Rows in the 2B Supply tab contain duplicated material reporting categories (field B). Enter each material reporting category in this table only once.
0	Rows in the 2B Supply tab are missing required information. Either enter missing inputs or clear these rows.
2	Rows in the 2B Supply tab report more pounds in field D than in field C. Pounds in field C cannot exceed those in field D. Adjust inputs.

Material Reporting Category	2B Supply Pounds	5B Exemption Claim Pounds
Corrugated Cardboard (Tertiary/transport) non-consumer	60,000.00	30,000.00
HDPE (#2)/LDPE (#4) (Pallet Wrap) non-consumer	300.00	50.00

# Other Helpful Features

## Start Here tab

- Overall instructions
- Resources
- Definitions
- Table of contents
- Guide to cell styles
- Data entry tips

### Cell Styles Used in this Form

Input cell requiring data entry.

**Data entry errors (data entry cells)**

**Duplicate row indicator for data entry error (shows in row ID fields in field A of tables)**

Informational notes related to entered data.

Input cell where input is not currently needed based on previous fields in this row.

Automated cell (no entry needed)

## Data entry tab instructions

- Instructions for each field
- Notes and tips
- Built-in reports for common errors

## Data entry tab features

- Cell color coding
- Dropdown lists populated from previous tabs
- Built-in formatting for common errors

Material Reporting Category (Exemption Claim)

- Corrugated Cardboard (Tertiary/transport) non-consumer
- HDPE (#2)/LDPE (#4) (Pallet Wrap) non-consumer

# Process Timeline

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## Q&A



**PRODUCT  
STEWARDSHIP  
INSTITUTE**



**Circular  
Action  
Alliance™**



State of Oregon  
Department of  
Environmental  
Quality

Thank you!



**PRODUCT  
STEWARDSHIP  
INSTITUTE**



**Circular  
Action  
Alliance™**



State of Oregon  
Department of  
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Quality