

Australian Capital Territory

# Waste Management and Resource Recovery (Processing Refund Protocol) Determination 2023

Disallowable Instrument DI2023-95

made under the

Waste Management and Resource Recovery Act 2016, s 64L (Payment of refund amounts to material recovery facility operators)

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**1 Name of instrument**

This instrument is the *Waste Management and Resource Recovery (Processing Refund Protocol) Determination 2023*.

**2 Commencement**

This instrument commences the day after its notification.

**3 Determination of Processing Refund Protocol**

I determine the attached Processing Refund Protocol.

**4 Revocation**

The *Waste Management and Resource Recovery (Processing Refund Protocol) Determination 2022* DI2022-266 is revoked.

Bruce Fitzgerald

Executive Group Manager, Infrastructure Delivery and Waste

25 May 2023



**ACT**  
Government

# ACT CONTAINER DEPOSIT SCHEME

## PROCESSING REFUND PROTOCOL

*Section 64L – Waste Management and Resource  
Recovery Act 2016*

TRANSPORT CANBERRA AND  
CITY SERVICES DIRECTORATE

25 May 2023

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# 1 DOCUMENT INFORMATION

## DOCUMENT DETAILS

Name: Processing Refund Protocol  
 Content owner: ACT NoWaste, Transport Canberra and City Service Directorate  
 Contact: Joley Vidau Ph: 6207 6515

## REVIEW AND APPROVAL

Date Approved: x  
 Date Effective: X  
 Approved by: Waste Manager  
 Jim Corrigan, Deputy Director-General City Services, Transport Canberra and City Services  
 Review period: 12 Months from effective date

## VERSION CONTROL

Version	Issue Date	Author	Details	Signature
1.1	20 June 2018	Jim Corrigan	Waste Manager, Deputy Director-General City Services	
2.0	update when approved	Alex Taylor	Draft for approval	
2.1	update when approved	Jim Corrigan	Waste Manager, Deputy Director-General City Services	
3.0	19 December 2022	Bruce Fitzgerald	Delegate of the Waste Manager, Executive Group Manager of Infrastructure, Delivery and Waste	
4.0	25 May 2023	Bruce Fitzgerald	Delegate of the Waste Manager, Executive Group Manager of Infrastructure, Delivery and Waste	

## 2 ABOUT THIS DOCUMENT

This document is the Processing Refund Protocol made under section 64L(2) of the *Waste Management and Resource Recovery Act 2016* (Act). This instrument is taken to have commenced on 01 January 2023.

It sets out the methodology and conditions to be applied in determining the amounts payable to a MRF Operator by the Scheme Coordinator as a Processing Refund under the CDS.

## 3 AIMS OF THE PROTOCOL

The aims of the Protocol are to:

- (a) protect the integrity of the CDS;
- (b) maximise eligible container refunds for containers, processed by, or on behalf of, a MRF Operator at a MRF, which are collected from domestic kerbside (Yellow-Lidded Bins) in the ACT and in jurisdictions with a legislated Container Deposit Scheme, and containers collected in the ACT from a commercial premises;
- (c) support equity between scheme participants; and
- (d) promote efficiency in container collection and counting.

## 4 APPLICATION

### 4.1 PROCESSING REFUND PROTOCOL APPLIES

Under section 64L(5) of the Act, a Processing Refund is not payable to a MRF Operator unless a Processing Refund Protocol is in force in relation to the Processing Refund.

This Processing Refund Protocol applies only to Processing Refunds in respect of Kerbside Containers and Commercial Containers received in the ACT by a MRF Operator directly from:

- (a) the provider of a Waste Collection Service established in the Territory by the Waste Manager under section 64(1) of the Act (that is, from the Territory's domestic 'Yellow-Lidded Bin' comingled Recycling collection service); or
- (b) a domestic kerbside recyclables collection service established in another Australian jurisdiction with a legislated Container Deposit Scheme; or
- (c) a Commercial Premises situated within the ACT,

and that:

- (d) are processed for Recycling by, or on behalf of, a MRF Operator at a MRF; and
- (e) for which a Processing Refund or Refund Amount (or equivalent payment in another jurisdiction) has not already been claimed (whether in the ACT or another jurisdiction).

The Waste Manager may, in their absolute discretion, approve a Waste Facility as a MRF for the purposes of the application of this Protocol.



## 4.2 REFUND SHARING

Further to section 64L(3) of the Act, a MRF Operator is not entitled to be paid a Processing Refund in relation to Kerbside Containers collected in the course of a 'Yellow-Lidded Bin' Waste Collection Service unless (a) and (b) (below) are satisfied:

- (a) a Refund Sharing Agreement is in force between the MRF Operator and the Territory, or between the MRF Operator and a local council in a state with a legislated Container Deposit Scheme, and, the Territory (or local council) has notified the Waste Manager in writing that it considers the terms of the agreement fair and reasonable;

OR

if there is no Refund Sharing Agreement in force between the MRF Operator and the Territory, or between the MRF Operator and a local council in a state with a legislated Container Deposit Scheme, the Territory (or local council), has notified the Waste Manager in writing that it considers it fair and reasonable that there is no Refund Sharing Agreement in force;

AND

- (b) the Waste Manager has approved in writing the Refund Sharing Agreement, or the absence of it, and confirmed to the Scheme Coordinator the ability of the MRF Operator to be paid a Processing Refund in respect of those Kerbside Containers collected by, or on behalf of, the Territory (or local council). In considering whether to approve the Refund Sharing Agreement, the Waste Manager will take into account what impact that agreement may have on the integrity of the ACT CDS.

In the case of any inconsistency between the Protocol, and the Act and Regulation, the Act and Regulation prevail to the extent of the inconsistency.

For the avoidance of doubt, a Refund Sharing Agreement (or approved absence of it) is not required in order for the MRF Operator to claim Processing Refunds in respect of Commercial Containers.

## 5 REVIEW OF PROTOCOL

The Protocol will be reviewed by the Waste Manager, at a minimum, within one year of its publication, and may be reviewed more frequently when considered appropriate by the ACT Government.

## 6 DEFINITIONS

Terms within this Protocol have the same meaning as defined within the Act or a Regulation made under it. In addition, the following definitions apply unless the context requires otherwise:

- Act** the *Waste Management and Resource Recovery Act 2016 (ACT)* as amended by the *Waste Management and Resource Recovery Amendment Act 2017 (ACT)*.
- ACT or Territory** when used:  
 (a) in a geographical sense, the Australian Capital Territory; and  
 (b) in any other sense, the body politic established by section 7 of the *Australian Capital Territory (Self-Government) Act 1988 (Cth)*.
- ACT Kerbside** has the meaning given in section 7.5.

<b>ACT Network</b>	has the meaning given in section 7.5.
<b>Annual Recycling Statement</b>	the statement required to be produced by a MRF Operator under section 10.1 of this Protocol, each year.
<b>Annual Throughput Reconciliation</b>	the report required to be produced by a MRF Operator under section 10.2 of this Protocol, each year.
<b>Approved Person</b>	a person approved by the Waste Manager to assess and sign claims for Processing Refunds.
<b>Business Day</b>	a day that is not— (a) a Saturday or Sunday; or (b) a public holiday.
<b>CDS or Scheme</b>	the ACT Container Deposit Scheme established by Part 10A of the Act.
<b>Claimable Ratio</b>	has the meaning given in section 8.2.1.
<b>Comingled Material</b>	material delivered to a MRF, regardless of its Source, which contains mixed materials designated for Recycling, separation and processing into Recyclable Materials at the MRF.
<b>Commercial Container</b>	<p>a “Container” (as defined in the Act) of a type which is eligible for a refund under the Act and which:</p> <p>(a) is collected from a Commercial Premises situated within the ACT; and</p> <p>(b) which is delivered to a MRF on or after the commencement day of the Scheme; and</p> <p>(c) which the MRF Operator, or a person on behalf of the MRF Operator, has processed and delivered for Reuse or Recycling.</p> <p>A Commercial Container does not include a container:</p> <p>(a) of a type for which a refund is not payable under the Act (e.g. a container which is not part of the CDS); or</p> <p>(b) for which a refund has already been paid (e.g. at a collection point, by a Network Operator, another MRF or another Container Deposit Scheme); or</p> <p>(c) that has not been collected from a Commercial Premises in the ACT.</p>
<b>Commercial Container Stream</b>	has the meaning given in section 7.5.
<b>Commercial Premises</b>	a place in the ACT that is operated as a business, or for the purpose of providing a service to the community, and that does not have a Yellow-Lidded Bin Waste Collection Service.
<b>Council Kerbside</b>	has the meaning given in section 7.5.
<b>Eligible Container Factor, or EFi</b>	has the meaning given in section 7.6.
<b>HDPE</b>	high-density polyethylene.
<b>Ineligible Container Stream</b>	has the meaning given in section 7.5.

<b>Kerbside Container</b>	<p>a “Container” (as defined in the Act) of a type which is eligible for a refund under the Act and which:</p> <ul style="list-style-type: none"> <li>(a) is collected through a Waste Collection Service in the ACT, or in another jurisdiction a domestic Waste Collection Service provided by a council, commonly known as a Yellow-Lidded Bins recycling service; and</li> <li>(b) which is delivered to the MRF Operator on or after the commencement day of the CDS; and</li> <li>(c) which the MRF Operator has processed and delivered for Reuse or Recycling.</li> </ul> <p>A Kerbside Container does not include a container:</p> <ul style="list-style-type: none"> <li>(a) for which a refund is not payable (e.g. a container which is not part of the CDS); or</li> <li>(b) for which a refund has already been paid (e.g. at a collection point, by a Network Operator or from another Container Deposit Scheme); or</li> <li>(c) which has been delivered to a MRF and Sourced from anywhere except a Yellow-Lidded Bin Waste Collection Service in the Territory, or an equivalent domestic recycling service in a state with a legislated Container Deposit Scheme; or</li> <li>(d) without limiting (c), which is a Commercial Container.</li> </ul>
<b>LPB</b>	liquid paperboard.
<b>MRF</b>	means a Waste Facility approved by the Waste Manager under section 4.1.
<b>MRF Operator</b>	means a material recovery facility operator as defined in the Act.
<b>Method</b>	a method for estimating the total number of Kerbside Containers or Commercial Containers processed for Reuse or Recycling by, or on behalf of, a MRF Operator, being those methods set out in section 7.2.
<b>Network Operator</b>	has the meaning given by the Act.
<b>Non-ACT Network</b>	has the meaning given in section 7.5.
<b>Non-Container Recyclables</b>	has the meaning given in section 7.5.
<b>Output Material Type</b>	has the meaning given in section 7.3.
<b>PET</b>	polyethylene terephthalate.
<b>Protocol or Processing Refund Protocol</b>	this “Processing Refund Protocol”.
<b>Processing Refund</b>	the amount calculated pursuant to this Protocol that is payable to a MRF Operator by the Scheme Coordinator, in accordance with section 64L(2) of the Act.
<b>Processing Refund Requirements</b>	the requirements that must be complied with by an MRF Operator for making a claim for a Processing Refund, as set out in section 7.8

<b>Recyclable Materials</b>	any or all of aluminium, PET, HDPE, mixed plastics, glass, steel and LPB or any other material defined as a Recyclable Material by the Territory from time to time.
<b>Recycling</b>	means converting a waste item into raw materials to make new products. For example, glass bottles can be crushed into fine sand for use as a construction material, or melted and moulded into new jars and bottles. For example, aluminium cans can be melted and recast into metal ingots to make new aluminium products.
<b>Refund Amount</b>	has the meaning given by the Act.
<b>Refund Sharing Agreement</b>	a written agreement between a MRF Operator and the Territory or a local council in a state with a legislated Container Deposit Scheme, under which the MRF Operator agrees to pay the Territory or the council (as the case may be) a proportion of all Processing Refunds paid to the MRF Operator by the Scheme Coordinator (on or after the Scheme commencement day) in respect of containers collected by, or on behalf, of the Territory or the council, from its area, as part of a Yellow-Lidded Bin Waste Collection Service or equivalent domestic recyclables collection service for the council.
<b>Regulation</b>	<i>Waste Management and Resource Recovery Regulation 2017.</i>
<b>Reuse</b>	giving a waste item a new purpose. For example, a used beverage container could be reused by cleaning the container and refilling it with a new drink.
<b>Reuse or Recycling</b>	when used collectively, means ‘Reuse’ or ‘Recycling’ and that the relevant material: <ul style="list-style-type: none"> <li>(a) is not consigned to a landfill;</li> <li>(b) does not become litter or pollution; and</li> <li>(c) is not stored for more than 12 months.</li> </ul>
<b>Reverse Vending Machine</b>	(RVM) A machine that identifies and accepts eligible containers one-by-one through container recognition technology and provides a credit to the consumer by way of voucher or the customer account.
<b>Sampling Plan</b>	the plan prepared by the Scheme Coordinator and approved by the Waste Manager, under section 9.2 of this Protocol.
<b>Scheme Coordinator</b>	has the meaning given by the Act.
<b>Source</b>	the location from which Recyclable Materials delivered to a MRF originated as defined by section 7.5 of this Protocol (and “Sourced” has the corresponding meaning).
<b>Waste Collection Service</b>	has the meaning given by the Act or, when applied to a local council in a state with a legislated Container Deposit Scheme, means a domestic recyclables collection service carried out by, or on behalf of a local council.
<b>Waste Facility</b>	has the meaning given by the Act.

<b>Waste Management Business</b>	has the meaning given by the Act.
<b>Waste Manager</b>	has the meaning given by the Act.
<b>Yellow-Lidded Bins</b>	the Territory's 'Yellow-Lidded Bin' domestic comingled recycling stream, being a Waste Collection Service established in the Territory by the Waste Manager under section 64(1) of the Act, or an equivalent domestic recyclables collection operated by, or on behalf of, a local council in another jurisdiction with a legislated Container Deposit Scheme.

## 7 MAKING A CLAIM

### 7.1 MRF OPERATOR MAY MAKE A CLAIM

A MRF Operator may make a claim for the payment of a Processing Refund for Kerbside Containers and Commercial Containers processed at the MRF and delivered from the MRF for Reuse or Recycling by lodging a Processing Refund claim with the Scheme Coordinator.

For each quarter, only one Processing Refund claim can be made by a MRF Operator.

It is a condition of a MRF Operator being entitled to submit a Processing Refund claim that it has, in relation to the relevant quarter:

- (a) measured and reported to the Scheme Coordinator and the Waste Manager the total weight of all materials received at and dispatched from each MRF including a breakdown by Source and Material Type (see Section 7.5);
- (b) where Method 1 (Weight based) has been used to estimate the number of Kerbside Containers and/or Commercial Containers; processed, measured and reported to the Scheme Coordinator and the Waste Manager, the total tonnes of Kerbside Containers and/or Commercial Containers delivered each month from each MRF for Reuse or Recycling by Output Material Type (see Section 7.6); and
- (c) where Method 2 (Direct counting) has been used to calculate the number of Kerbside Containers and/or Commercial Containers; processed, counted and reported to the Scheme Coordinator and the Waste Manager, the total number of Kerbside Containers and/or Commercial Containers delivered each month from each MRF for Reuse or Recycling by Output Material Type (see Section 7.7).

### 7.2 AVAILABLE CALCULATION METHODS

Subject to Section 7.4, one of the following Methods must be used for estimating or calculating the total number of Kerbside Containers and Commercial Containers processed for Reuse or Recycling by a MRF Operator during any given quarter:

- (a) Method 1 – Weighing (refer to Section 7.6); or
- (b) Method 2 – Direct Counting (refer to Section 7.7).

### 7.3 OUTPUT MATERIAL TYPES

All materials dispatched from a MRF for the purpose of Reuse or Recycling, (including Kerbside Containers, Commercial Containers and other materials), must be separated by the MRF Operator into one or more of the following Output Material Types:

- (a) Aluminium;
- (b) PET;
- (c) HDPE
- (d) Mixed plastics (PET, HDPE and other plastics);
- (e) Steel;
- (f) Liquid Paperboard;
- (g) Glass,
- (h) Fibre (paper & cardboard), and
- (i) Other output material (as approved in writing by the Waste Manager).

A MRF Operator may seek approval of other Output Materials by application in writing to the Waste Manager, copied to the Scheme Coordinator, at least 20 business days before the commencement of the quarter for which a MRF Operator intends to make a Processing Refund claim for the proposed Output Material Type for which approval is sought.

The Waste Manager may add or approve new Output Material Types (including by approval of an application under this section) in its absolute discretion.

### 7.4 NOMINATION OF METHOD

The Waste Manager nominates in this Protocol which of the available Methods (see section 7.2) for estimating or calculating the number of Kerbside Containers and/or Commercial Containers processed through a MRF will apply to which specific Output Material Types as set out in the Table below.

**TABLE 1: Specific Methodology by Material Type**

Output Material Type	Method nominated by Waste Manager
Aluminium	Method 1 – Weighing
PET	Method 1 – Weighing
Glass	Method 1 – Weighing
HDPE	Method 1 – Weighing
Mixed plastic (including HDPE)	Method 1 – Weighing
Steel**	No method specified
LPB**	No method specified

This Table 1 may be modified as a result of ongoing audit results from sampling carried out by the Scheme Coordinator or Territory and changing requirements or trends, as indicated by the Scheme Coordinator or the Waste Manager.

The nominated Method in Table 1 may also change in the future depending on the capability of a MRF being able to auto-count materials such as Aluminium, PET, HDPE and Mixed Plastics.

Any changes to the Methods available for different Output Material Types as set out in Table 1 will be reflected in an updated version of this Protocol being issued by the Waste Manager.

\*\*No Method has been specified at the present time for Steel and LPB, therefore these materials will not be eligible for a Processing Refund. This is due to the low number of CDS eligible containers manufactured from these materials currently included in kerbside and commercial collection audit data. This Protocol may be updated to nominate a Method for Steel and LPB at a later date.

## 7.5 MEASUREMENT AND REPORTING OF TOTAL MATERIALS RECEIVED AND DISPATCHED BY A MRF OPERATOR

A MRF Operator must measure and report for each month the following information to the Scheme Coordinator in the manner and format advised by the Scheme Coordinator within 10 business days after the end of that month.

### REPORTING

The **Source** of each load of material received at a MRF must be recorded as being from one of the following Sources, and where used elsewhere in this Protocol these terms have the corresponding meaning:

- (a) **“ACT Kerbside”**: The domestic kerbside recyclables collection of Yellow-lidded Bins (containing Kerbside Containers) collected by a Waste Collection Service from households in the ACT;
- (b) **“Council Kerbside”**: The domestic kerbside recyclables collection of Yellow-lidded Bins (containing Kerbside Containers) collected by or on behalf of a local council in another Australian jurisdiction with a legislated Container Deposit Scheme;
- (c) **“Commercial Container Stream”**: A recyclables stream that includes Commercial Containers;
- (d) **“ACT Network”**: A recyclables stream that includes “Containers” (as defined in the Act) for which a refund has been paid within the ACT (e.g. ACT Network Operator material);
- (e) **“Non-ACT Network”**: A recyclables stream that includes “Containers” (as defined in the Act) from another Australian jurisdiction with a legislated Container Deposit Scheme for which a refund has already been paid (e.g. “Non-Claimable Material” as defined in the NSW Container Deposit Scheme material recovery facility processing refund protocol);
- (f) **“Ineligible Container Stream”**: A recyclables stream that includes “Containers” (as defined in the Act) but that are ineligible to be claimed under the ACT CDS, and do not fall within the definition of ACT Network or Non-ACT Network (e.g. Containers from an Australian jurisdiction without a legislated Container Deposit Scheme, or Containers from another Australian jurisdiction with a legislated Container Deposit Scheme that are not Council Kerbside); or
- (g) **“Non-Container Recyclables”**: A recyclables stream that does not include “Containers” (as defined by the Act) (e.g. source separated paper and cardboard collections).

**Note:** *These Sources are mutually exclusive*

A MRF Operator must also ensure each baled load of waste or recovered resources leaving a MRF is weighed and recorded as being from one of the following outbound material **streams**:

- i. the weight of material that includes Kerbside Containers or Commercial Containers

- (reported by Output Material type) delivered from a MRF for Reuse or Recycling in the month; or
- ii. the weight of material that includes “Containers” (as defined in the Act) recovered from ACT Network and Non-ACT Network material (reported by Output Material type) delivered from the MRF for Reuse or Recycling in the month; or
  - iii. the weight of Recyclable Material that does not include Containers (as defined in the Act) delivered from a MRF for Reuse or Recycling in the month;
  - iv. the weight of non-recyclable waste materials generated at a MRF, whether amongst recyclables delivered to a MRF, or generated as part of processing of recyclables at a MRF, which are to be disposed of, or sent to another Waste Facility for further processing.

**Note:** *These streams are mutually exclusive*

A MRF Operator must also ensure that all glass leaving the MRF is weighed and recorded.

Where a load contains material from more than one of the streams in (i) – (iv) above, the total weight of the load will be apportioned between the input sources on the basis of bale counts (e.g. if 50% of the bales in a load are from the input source referred to in subclause (i) above, 50% of the total weight of the load will be taken to be from this source).

Additionally, a MRF Operator must also ensure that:

- v. the ACT Kerbside, Council Kerbside, Commercial Container Stream and Ineligible Container Stream material is received and weighed separately from all other materials at an MRF; and
- vi. ACT Network materials are received, weighed, processed, and stored or identified separately from all other materials at the MRF, except as provided in clause 7.5(vii); and
- vii. ACT Network materials from RVMs are received and weighed separately from all other materials at the MRF, however they may be processed and stored or identified with Non-ACT Network materials (or with other previously claimed containers as approved by the Scheme Coordinator); and
- viii. Non- ACT Network materials are received & weighed, processed separately from all other materials at the MRF, except as provided in clause 7.5(vii); and
- ix. the remaining baled stock and glass balance for each of (v), (vi), (vii), and (viii) is recorded at the end of the month in accordance with the operating procedures of the MRF Operator, ensuring balances will be prepared on a reasonable basis to support the calculation of a monthly mass balance.

Despite paragraph v. above, they may be processed with other materials subject to the prior written approval of the Scheme Coordinator.

## 7.6 METHOD 1 - WEIGHING

A MRF Operator applying Method 1 for one or more Output Material Types must measure and record the total quantity and Source of all material (including Sources containing Kerbside Containers and Commercial Containers) received at each MRF.



The quantity of materials received at a MRF must be determined by measuring the weight of that material using calibrated weighing equipment, and in accordance with the *National Measurement Act 1960* (Cth) (as amended or replaced from time to time), and in accordance with the following:

- (a) the weight must be measured in tonnes;
- (b) the weight must be measured using weighing equipment that has the following minimum accuracy:
  - (i) For weighbridges: +/- 20kg;
  - (ii) For all other weighing equipment: +/- 1 kg
- (c) the weight must be recorded to a minimum 2 decimal places;
- (d) weighing equipment must be calibrated in accordance with all manufacturer requirements; and
- (e) weighbridges, where used as weighing equipment for the purpose of this section, must be verified (within the meaning of the *National Measurement Act 1960* (Cth) at least once per year.

Where Method 1 is applied, verification of the conversion factor from weight (per Output Material Type) to Kerbside Container and/or Commercial Container number (called the “Eligible Container Factor” or EFi) must be undertaken. This verification varies depending on Output Material Type:

- I. For Glass containers: the conversion factor (EFi) is derived from the number of Containers counted per tonne of Glass contained in the kerbside comingled recycling received at a MRF.
- II. For all other containers: the conversion factor (EFi) is derived from the number of Containers per tonne of that Output Material type delivered from a MRF for Reuse or Recycling or contained in the kerbside comingled recycling received at a MRF.

More detail about calculating the Eligible Container Factor for a particular Output Material Type is in contained in section 9.2.

## REPORTING

The reporting requirements in section 7.5 apply for outbound material streams.

### 7.7 METHOD 2 - DIRECT COUNTING (MANUAL OR AUTOMATED)

A MRF Operator applying Method 2 for one or more Output Material Types must count the number of individual Kerbside Containers and/or Commercial Containers, of each relevant Output Material Type, delivered from a MRF for Reuse or Recycling.

Counting under Method 2 may be undertaken on a manual or automated basis.

Where Method 2 is applied, manual recounts must be undertaken monthly of the proportion of Kerbside Containers, Commercial Containers and other material determined in accordance with the Sampling Plan (as detailed in Section 9.2) to assess the accuracy of the counting procedures undertaken.

Documentary evidence of all recounts must be maintained by the MRF Operator. Manual recounts can be undertaken concurrently where counting under Method 2 is undertaken on an automated basis.

## REPORTING

A MRF Operator must report the following information each month to the Scheme Coordinator in the manner and format advised by the Scheme Coordinator within 10 business days after the end of that month:

- (a) the reporting requirements in section 7.5; and
- (b) the number of Kerbside Containers and/or Commercial containers delivered from the MRF for Reuse or Recycling, by Output Material Type.

## 7.8 MAKING A PROCESSING REFUND CLAIM

Processing Refund claims must:

- (a) be made in writing by a MRF Operator;
- (b) include any information, documents or reports required under the Act or Regulation or prescribed under this Protocol, to be included with the claim (together, the “**Processing Refund Requirements**”);
- (c) be signed by an Approved Person who has assessed the claim and determined that the Protocol has been correctly applied in determining the amount of the claim;
- (d) be signed and completed in accordance with Section 7.10 by the Approved Person who has assessed the claim;
- (e) be lodged with the Scheme Coordinator in the manner and format advised by the Scheme Coordinator, and received within 28 calendar days after the end of the relevant quarter; and
- (f) be sent to the Waste Manager as a copy.

## 7.9 INFORMATION TO BE INCLUDED WITH ALL PROCESSING REFUND CLAIMS

The following information must be included in each Processing Refund claim:

- (a) the name, address and contact details of the MRF Operator making the claim;
- (b) the ABN and ACN of the MRF Operator making the claim;
- (c) the name and work contact details of a contact person for the claim;
- (d) bank account details, including BSB and account number, for payment of Processing Refunds;
- (e) the name, address and contacts of each MRF involved in processing the materials to which the claim relates;
- (f) the following data:
  - i. the total weight of all materials received at the MRF during the quarter, and a breakdown of that total weight by Source;
  - ii. where Method 1 is used for any Output Material Type, the total weight of outputs containing Kerbside Containers and/or Commercial Containers and the total weight of all other materials delivered from the MRF for Reuse or Recycling or disposal during the

quarter;

- iii. where Method 2 is used for any Output Material Type, the total number of Kerbside Containers and/or Commercial Containers and the weight of all other material and contamination that has been delivered from the MRF for Reuse or Recycling or disposal during the quarter; and
- (g) the information in the breakdown of the weight of material received at a MRF by Source should include those Sources set out in section 7.5

**Note:** The information in section 7.9 (a) – (d) once provided by a MRF Operator in respect of its first Processing Refund claim, does not need to be provided again for the second and subsequent Processing Refund claims unless any of this information has changed and requires updating.

## 7.10 INFORMATION TO BE VERIFIED

Each Processing Refund claim must be accompanied by a statutory declaration:

- (a) signed by a person approved by the Waste Manager;
- (b) which confirms that:
  - i. based on all reasonable steps having been taken to verify the information in the claim, the claim is accurate and complete;
  - ii. the claimant has correctly applied the Protocol in determining the details of the claim;
  - iii. the Claimable Ratio applied is true and correct;
  - iv. the material the subject of the claim has not been and will not be the subject of a refund claim from any other source (including but not limited to another MRF or MRF Operator, a Network Operator or a Collection Point Operator under the Act, or any equivalent participant in a legislated Container Deposit Scheme in another jurisdiction);
  - v. the material has been processed by, or on behalf of the claimant for Reuse or Recycling; and
  - vi. the material has not been received at the MRF before the commencement date of Part 10A of the Act.

**NOTE:** In approving persons to sign a statutory declaration relating to a Processing Refund claim, the Waste Manager may require that the person be one of the following:

- (c) a director of a MRF Operator or of the ultimate holding company of the MRF Operator;
- (d) the chief executive officer of a MRF Operator or the ultimate holding company of the MRF Operator;
- (e) the chief financial officer of a MRF Operator or of the ultimate holding company of the MRF Operator;
- (f) the company secretary of a MRF Operator or of the ultimate holding company of the MRF Operator; or

(g) any designated person to whom the above persons have delegated their authority in writing.

## 8 ASSESSMENT OF CLAIMS

The Scheme Coordinator is required, on receiving a valid Processing Refund claim, to pay a MRF Operator a Processing Refund for Kerbside Containers and Commercial Containers that have been delivered from a MRF for Reuse or Recycling as calculated in accordance with and subject to this section 8.

The amount payable by the Scheme Coordinator to a MRF Operator must be determined using the calculation detailed in this section 8.

In assessing the claim, the Scheme Coordinator may audit a MRF Operator and require the MRF Operator to provide information or records in relation to any MRFs involved in processing the material to which the claim relates. An audit can include a physical audit of facilities or records, requests for additional information or to seek evidence from third parties to determine relevant matters.

### 8.1 CALCULATION OF THE NUMBER OF ELIGIBLE CONTAINERS BY OUTPUT MATERIAL TYPE

#### 8.1.1 METHOD 1

Where a MRF Operator makes a Processing Refund claim and has used Method 1 for a particular Output Material Type, the Scheme Coordinator must determine the estimated number of Kerbside Containers and Commercial Containers processed for Reuse or Recycling during the quarter using the following calculation:

$$E_i = (Q_i \times S \times EF_i)$$

Where:

$E_i$  is the estimated number of Kerbside Containers and Commercial Containers processed for Reuse or Recycling during the quarter for Output Material Type for the quarter.

$Q_i$  is the total weight of Output Material Type measured in tonnes delivered from a MRF for Reuse or Recycling during the quarter that includes Kerbside Containers and Commercial Containers.

$S$  is the Claimable Ratio determined using the calculation detailed in section 8.2.1

$EF_i$  is the Eligible Container Factor for Output Material Type as referenced in section 9.

#### 8.1.2 METHOD 2

Where a MRF Operator makes a Processing Refund claim using Method 2, for a particular Output Material Type, the Scheme Coordinator must determine the estimated number of Kerbside Containers and Commercial Containers processed for Reuse or Recycling during the quarter using the following calculation:

$$E_i = (QE_i \times S)$$

Where:

$E_i$  is the estimated number of Kerbside Containers and Commercial Containers processed for Reuse or Recycling during the quarter for Output Material Type.

$QE_i$  is the total counted number of Kerbside Containers and Commercial Containers for Output Material Type delivered from a MRF for Reuse or Recycling during the quarter.

$S$  is the Claimable Ratio determined using the calculation detailed in Section 8.2.1.

## 8.2 CLAIMABLE RATIO OF CONTAINERS

### 8.2.1 CLAIMABLE RATIO

The Claimable Ratio is used to determine the proportion of Containers (as defined in the Act) that may be claimed from output material that includes Kerbside Containers or Commercial Containers, by Output Material Type.

$$S = N/T$$

Where:

$S$  is the Claimable Ratio.

$N$  is the total weight of ACT Kerbside, Council Kerbside and Commercial Container Stream material received at the MRF during the quarter that forms the basis of the Processing Refund Claim.

$T$  is the total weight of ACT Kerbside, Council Kerbside, Commercial Container Stream and Ineligible Container Stream material received at the MRF during the quarter that forms the basis of the Processing Refund claim.

## 8.3 CALCULATION OF PROCESSING REFUND

### 8.3.1 CALCULATION OF THE TOTAL PROCESSING REFUND PAYABLE

The Scheme Coordinator must calculate the total Processing Refund payable to a MRF Operator for each quarter using the following calculation:

$$P_i = (\sum E_i \times RA_i) - D$$

Where:

$P_i$  is the total Processing Refund payable to a MRF Operator for the quarter.

$\sum E_i$  is the sum of the estimated number of Kerbside Containers and Commercial Containers processed and delivered for Reuse or Recycling during the quarter for all Output Material Types.

$RA_i$  is the Refund Amount per container, as set out in the Regulation.

$D$  is the amount the Scheme Coordinator is eligible to deduct pursuant to section 8.4 and/or section 11.2.

## 8.4 DEDUCTION OF SAMPLING COSTS

The Scheme Coordinator must deduct, when calculating the total Processing Refund payable to a MRF Operator, the direct monetary cost actually and reasonably incurred by it to undertake the procedures set out in the Sampling Plan (see Section 9.2).

## 8.5 CLAIM ASSESSMENT

Where a MRF Operator makes a Processing Refund claim, the Scheme Coordinator must issue the MRF

Operator with a claim assessment.

The claim assessment must include:

- (a) the total Processing Refund payable to a MRF Operator for the quarter including a breakdown showing:
  - (i) the sampling cost deduction for a MRF Operator for the quarter pursuant to section 8.4;
  - (ii) the Scheme Coordinator's assessment of the sum of the estimated number of Kerbside Containers and Commercial Containers processed for Reuse or Recycling during the quarter for all Output Material Types;
  - (iii) where Method 1 was used for any Output Material Type claimed, the Scheme Coordinator's assessment of the:
    - i. the total weight of each Output Material Type for the quarter;
    - ii. the Eligible Container Factor applied to each Output Material Type for the quarter;
    - iii. the Claimable Ratio applied in calculating the estimated number of Kerbside Containers and Commercial containers processed for Reuse or Recycling during the quarter for each Output Material Type; and
    - iv. the estimated number of Kerbside Containers and Commercial Containers delivered for Reuse or Recycling during the quarter for each Output Material Type;
  - (iv) where Method 2 is used for any Output Material Type the Scheme Coordinator's assessment of the:
    - i. total counted number of Kerbside Containers and Commercial Containers processed for Reuse or Recycling by a MRF for each Output Material Type in the quarter;
    - ii. the estimated number of Kerbside Containers and Commercial Containers delivered for Reuse or Recycling during the quarter for each Output Material Type; and
  - (v) any other information required to be included in a claim assessment by the Act, Regulation or this Protocol.

## 8.6 TIMEFRAME FOR ISSUING CLAIM ASSESSMENT

Where a MRF Operator makes a Processing Refund claim, the Scheme Coordinator must issue the MRF Operator with a claim assessment in accordance with Section 8. The Scheme Coordinator must issue the claim assessment within 20 business days after the 28-day claim period at the end of each quarter.

If the Scheme Coordinator can provide reasonable justification for an extension to the timeframe for issuing a claim assessment for a given quarter (such as a delay by the MRF Operator to facilitate an audit of an MRF, to validate a claim, or, to provide information or records relevant to assessment of the claim), it must notify the Waste Manager and MRF Operator as soon as possible and submit a request

for extension to the Waste Manager in a timely manner. The Waste Manager may then grant an extension of a specified number of days appropriate to the circumstances, having considered input from the affected parties.

## 8.7 TIMEFRAME FOR PAYMENT OF PROCESSING REFUNDS

Processing Refunds must be deposited into the nominated bank account of a MRF Operator within 5 business days of the issuance of the claim assessment by the Scheme Coordinator. The nominated bank account is the bank account listed by a MRF Operator in its relevant claim.

## 8.8 REFUSAL OF CLAIMS

The Scheme Coordinator may refuse a Processing Refund claim or any aspect of a Processing Refund claim where it reasonably determines that a claim has not been made in accordance with this Protocol.

## 8.9 AMENDING PROCESSING REFUND CLAIMS – MRF OPERATOR INITIATED

A MRF Operator may request an amendment to a Processing Refund claim assessment by submitting a request in writing to the Scheme Coordinator.

A request for an amendment must be made within 70 business days from the date of the original claim and include relevant information supporting the requested amendment. Requests for amendment of a Processing Refund claim assessment will not be accepted by the Scheme Coordinator where the initial Processing Refund claim was not lodged with the Scheme Coordinator within 10 business days of the end of the quarter in the approved manner as detailed in Section 7.8.

In deciding whether to amend a Processing Refund claim assessment, the Scheme Coordinator:

- (a) must have regard to the matters required by the Processing Refund Requirements; and
- (b) may have regard to any other matter that it considers relevant.

If the Scheme Coordinator refuses to amend a claim assessment upon request by a MRF Operator, the Scheme Coordinator must notify the MRF Operator accordingly and provide clear and justifiable reasons for refusing.

## 8.10 AMENDING PROCESSING REFUND CLAIMS – SCHEME COORDINATOR INITIATED

The Scheme Coordinator may amend a Processing Refund claim assessment, even where an amendment has not been requested by the MRF Operator, if one of the following assurance related circumstances occurs:

- (a) a qualified assurance conclusion; or
- (b) an adverse assurance conclusion; or
- (c) a conclusion that the assurance provider is unable to form an opinion about the matter being assured, and

the conclusion is issued in relation to assurance carried out under Section 11 of the Protocol.

If the Scheme Coordinator amends a claim assessment/s on this basis, the Scheme Coordinator must notify the MRF Operator and the Waste Manager accordingly and provide clear and justifiable reasons for

the amendment.

## 8.11 AMENDMENT BY MUTUAL AGREEMENT

The Scheme Coordinator, MRF Operator or the Waste Manager may identify an error in the calculation or a need to amend a claim outside the prescribed conditions enabling an adjustment described within clause 8.9 or 8.10.

In this case a request will be sent in writing to both other parties and if agreed that an adjustment is warranted, the Scheme Coordinator will initiate the adjustment.

## 8.12 REVIEW OF CLAIM ASSESSMENTS

A MRF Operator may request the Scheme Coordinator to reconsider a Processing Refund claim assessment made under this Protocol. The request must be:

- (a) in writing;
- (b) provide a description of the matter to be reconsidered with reference to the Protocol and relevant supporting information; and
- (c) received by the Scheme Coordinator no later than 45 business days after the original assessment is received by the MRF Operator.

The Scheme Coordinator must reconsider the assessment and confirm, vary or set aside the original assessment. The Scheme Coordinator must give written notice of its decision regarding the reconsideration to the MRF Operator within 45 business days after the request is received by the Scheme Coordinator.

## 8.13 RECONCILIATION OF PAYMENT OF PROCESSING REFUNDS

### 8.13.1 UNDERPAYMENT

Where a Processing Refund claim assessment is amended or reviewed under this Protocol and it is determined that there has been an underpayment to a MRF Operator, the amount of the underpayment is a debt due from the Scheme Coordinator to the MRF Operator.

The Scheme Coordinator must deposit the outstanding Processing Refund into the nominated bank account of the MRF Operator within 5 business days of amending the claim assessment and within 5 business days of the provision of written notice of decision under Section 8.11.

### 8.13.2 OVERPAYMENT

Where a Processing Refund claim assessment is amended or reviewed under this Protocol and it is determined that there has been an overpayment to a MRF Operator, the amount of the overpayment is a debt due from the MRF Operator to the Scheme Coordinator.

The Scheme Coordinator must advise the MRF Operator in writing where there has been an overpayment and detail the extent of that overpayment.

The MRF Operator must:

- (a) reimburse the Scheme Coordinator the total amount that has been overpaid within 5 business days of being notified of the overpayment by the Scheme Coordinator; or



- (b) where the MRF Operator believes on reasonable grounds that a lump sum repayment will create financial hardship, it may either:
- a. make repayments by a series of instalments under a repayment negotiated between the MRF Operator and the Scheme Coordinator; or
  - b. make repayments by way of one, or a series of, deductions negotiated between the MRF Operator and the Scheme Coordinator from any future Processing Refunds otherwise payable to the MRF Operator.

## 9 ELIGIBLE CONTAINER FACTOR

### 9.1 DETERMINING ELIGIBLE CONTAINER FACTOR

The Eligible Container Factor (EF<sub>i</sub>) will be calculated periodically by the Scheme Coordinator as requested and approved by the Waste Manager. The EF<sub>i</sub> will be published by the Scheme Coordinator and may be updated from time to time to reflect changes in the mix of beverage container materials and packaging technology.

The Eligible Container Factor for each Output Material Type will be determined using:

- (a) sampling data;
- (b) data collected in accordance with the Sampling Plan;
- (c) claim information; and
- (d) any other information considered relevant by the Waste Manager.

### 9.2 SAMPLING PLAN

A Sampling Plan, which must be approved by the Waste Manager, will be developed and published by the Scheme Coordinator for the following purposes:

- (a) in relation to Method 2—to set out the proportion of containers to be manually recounted to assess the accuracy of container counts; and
- (b) in relation to the determination of the EF<sub>i</sub>—to set out the sampling requirements for the collection of representative data on the number of Eligible Containers per tonne of material delivered to or processed at a MRF from all of the various Sources which deliver material to that MRF.

#### 9.2.1 FACILITY BASED OR KERBSIDE SAMPLING

For each quarter, the Scheme Coordinator may arrange and pay for independent sampling auditors to undertake facility based or kerbside sampling in accordance with the approved Sampling Plan. All sampling results will be provided by the independent sampling auditors to the Scheme Coordinator to enable it to calculate the EF<sub>i</sub>.

The Scheme Coordinator may arrange with a MRF Operator for the sampling auditors to take samples at MRF at any time within normal business hours. A MRF Operator must provide all reasonable assistance and facilities required by the sampling auditor and their team including providing a safe means of taking samples, a suitable and safe area for sorting the samples and conducting site based analyses.

## 9.3 APPROVAL OF THE ELIGIBLE CONTAINER FACTOR

The Waste Manager will approve in writing the Eligible Container Factor determined by the Scheme Coordinator based on a range of data specified in section 9.1. In the initial stages of the Scheme, the EFi will be determined more regularly to ensure it accounts for any changes to MRF inputs during that time. As more data is collected, and MRF inputs stabilise over time, the Waste Manager will review this approach with a view to updating the EFi less frequently as the Scheme develops and container counting technology changes.

## 9.4 PUBLISHING OF ELIGIBLE CONTAINER FACTOR

The Scheme Coordinator will publish the EFi before the end of the first quarter of the Scheme and then periodically thereafter. Where a new or updated EFi is published by the Scheme Coordinator, it must only be used by a MRF Operator in making a Processing Refund claim for the period in which the EFi was calculated or in any subsequent period until a new EFi is published.

# 10 REPORTING AND RECORD KEEPING REQUIREMENTS

## 10.1 ANNUAL RECYCLING STATEMENT

A MRF Operator is required to prepare and submit an Annual Recycling Statement for each MRF to the Scheme Coordinator and the Waste Manager within 45 business days of the end of each financial year ended 30 June (the 'reporting period').

The Annual Recycling Statement must be in writing and must contain the following information:

- (a) MRF throughput reconciliation, prepared in accordance with Section 10.2.
- (b) where Method 1 has been applied, the total weight of Kerbside Containers and Commercial Containers delivered for Reuse or Recycling for which a Processing Refund claim has been made during the reporting period by Output Material Type; and
- (c) where Method 2 has been applied, the total number of Kerbside Containers and Commercial Containers delivered by a MRF Operator during the reporting period.

## 10.2 ANNUAL THROUGHPUT RECONCILIATION

A MRF Operator is required to prepare and submit an Annual Throughput Reconciliation for each MRF, to the Scheme Coordinator and the Waste Manager within 45 business days of the end of each financial year ended 30 June, of all input materials received and all Output Materials by material type for the MRF, including:

- (a) total quantity (in tonnes) of material received at a MRF from ACT Sources;
- (b) total quantity (in tonnes) of material received at a MRF from local government areas in another State or Territory with a legislated Container Deposit Scheme serviced by the MRF Operator;
- (c) total quantity (in tonnes) of material received at a MRF from Sources outside the ACT, excluding quantities reported in (b);
- (d) total quantity (in tonnes) of Output Material Types collected from Yellow-Lidded Bin Waste Collection Services Sources and Commercial Premises, received at a MRF, and containing Kerbside Containers and Commercial Containers:

- (i) delivered from a MRF for Reuse or Recycling, and
  - (ii) remaining at the MRF at the end of the year,
- with both (d) (i) and (d) (ii) reported by Output Material Type;
- (e) total quantity (in tonnes) of all Recyclable Material leaving the MRF, not captured in (d) and reported by Output Material Type;
  - (f) total quantity (in tonnes) of material which is residual waste or non-recyclable material which is sent to landfill or another destination for disposal or further processing;
  - (g) total opening and closing stock on hand.

## 10.3 STOCKTAKE

A MRF Operator intending to make claims for Processing Refunds must undertake a stocktake, of all materials at all MRF's that the MRF Operator has or intends to make a claim in relation to, on 30 June. The stocktake must capture the amount (in tonnes) of:

- (a) all Source materials that remain unprocessed at a MRF on the day of the stocktake, reported by Source (section 7.5)
- (b) all Output Material processed through a MRF but not yet dispatched from the site for Reuse or Recycling, reported by material type (section 7.5)
- (c) all other materials at a MRF on the day of the stocktake not captured in (a) and (b) and reported with a description of that materials (e.g. waste or reject destined for landfill, material destined for reprocessing)

The stocktake must be accompanied by an Independent Assurance Report prepared in accordance with the assurance requirements in section 11. Any costs associated with the conduct of the stocktake and the independent assurance report must be met by the MRF Operator.

## 10.4 RECORD KEEPING

All records of evidence and documents supporting each Processing Refund claim must be kept by the MRF Operator in a form that is easily and quickly accessible for inspection. This may be an electronic or hard copy format.

A MRF Operator must keep records of the activities that:

- (a) allow it to report accurately under the Protocol; and
- (b) enable the Scheme Coordinator to ascertain whether the MRF Operator has complied with its obligations under the Protocol; and

A MRF Operator must retain all records for 7 years from the end of the reporting period to which the records relate.

# 11 ASSURANCE REQUIREMENTS

## 11.1 ANNUAL RECYCLING STATEMENT

Each Annual Recycling Statement must be accompanied by an Independent Auditing Report which complies with this Section. The independent auditor is to be proposed by a MRF Operator to the Waste Manager at least 20 Business days before the end of each reporting year and requires approval in writing by the Waste Manager (such approval not to be unreasonably withheld). A claimant MRF Operator is responsible for payment of any costs associated with the independent auditor.

The matters to be assured and covered by the assurance report are whether:

### Reasonable assurance matters

- (a) the person(s) who have made claims during the reporting period met the definition of a MRF Operator in accordance with the Act and Regulations;
- (b) the Annual Recycling Statement has been prepared in accordance with Section 10.1 of the Protocol;
- (c) the quantities of each Output Material Type from a MRF Operator during the reporting period measured in accordance with Section 7 of the Protocol;
- (d) the Annual Throughput Reconciliation for the reporting period, calculated in accordance with Section 10.2 of the Protocol; and

### Limited assurance matters

- (e) the Output Materials from a MRF Operator included within the Annual Recycling Statement have been Reused or Recycled or will be Reused or Recycled within 12 months from the date that the Processing Refund claim was submitted.

## 11.2 SCHEME COORDINATOR INITIATED ASSURANCE

The Scheme Coordinator may, in addition to the verification activities completed by the Scheme Coordinators' internal audit team, appoint an appropriately qualified assurance practitioner as an assurance team leader to carry out assurance of a MRF Operator's compliance with one or more aspects of the Protocol.

The Scheme Coordinator must give written notice to a MRF Operator of a decision to appoint an assurance team leader. The notice must:

- (a) specify the assurance team leader;
- (b) specify the period within which the assurance is to be undertaken;
- (c) specify the type of assurance to be carried out;
- (d) specify the matters to be covered by the assurance; and
- (e) be given to the MRF Operator at a reasonable time before the assurance is to be undertaken.

A MRF Operator must provide the assurance team leader and any assurance team members with all reasonable facilities and assistance necessary for the effective exercise of the assurance team leader's duties under the Protocol.

If a MRF Operator is given a notice under this section 11.2, the MRF Operator must arrange for the assurance team leader to carry out the assurance.

- (f) The costs associated with the Scheme Coordinator assurance activities will be covered by the Scheme Coordinator and must not be deducted (in whole or part) when calculating the Processing Refund, unless the assurance activities uncover an adjustment in favour of the Scheme Coordinator. In this case, the costs of the assurance activities are to be shared on a 'pro-rata' basis between the MRF Operator and the Scheme Coordinator to reflect the size of the adjustment in proportion to the adjusted Processing Refund payment for that quarter, which the amount owing from the MRF Operator is to be deducted when calculating its next Processing Refund claim.

### 11.3 ASSURANCE REPORTS

Assurance reports issued under Section 11 must include one of the following conclusions for the matters in Sections 11.1 or 11.2(d):

- (a) a reasonable assurance conclusion; or
- (b) a qualified reasonable assurance conclusion; or
- (c) an adverse conclusion; or
- (d) a conclusion that the assurance provider is unable to form an opinion about the matter being assured.

An assurance report under this Section must be the result of an assurance engagement which:

- (e) was conducted in accordance with the relevant requirements for limited assurance engagements and reasonable assurance engagements under the Australian Standard on Assurance Engagements ASAE 3000 *Assurance Engagements other than Audits or Reviews of Historical Financial Information* and Australian Standard on Assurance Engagements ASAE 3100 *Compliance Engagements*; ASAE 3450 *Assurance Engagements involving Corporate Fundraisings and/or Prospective Financial Information*; and
- (f) had an assurance team leader who is:
  - i. registered as a Registered Company Auditor under the *Corporations Act 2001*; or
  - ii. registered as a Category 2 auditor under sub Regulation 6.25(3) of the *National Greenhouse and Energy Reporting Processing Refund requirements 2008*; or
  - iii. other registered auditors deemed appropriate by the ACT as set out on the ACT CDS website.

## 12 DISPUTE RESOLUTION

### 12.1 NEGOTIATION OF DISPUTE

If a difference or dispute (**Dispute**) arises between a MRF Operator and the Scheme Coordinator in relation to any aspect of the Scheme, either may give notice to the other that a Dispute exists, which specifies details of the Dispute. A MRF Operator and Scheme Coordinator must first endeavour to resolve the Dispute by negotiations.

Each party must continue to perform its obligations under this Protocol and the Scheme notwithstanding the existence of a Dispute.

### 12.2 EXECUTIVE NEGOTIATION

If the Dispute is not resolved by negotiation within 20 Business days of the notice of Dispute, either party may submit the Dispute to appropriate senior executives for consideration.

The senior executives must, within 15 business days of notice from either party of a referred Dispute, meet and undertake good faith negotiations with a view to resolving the Dispute.

### 12.3 EXPERT DETERMINATION

If the senior executives cannot resolve the Dispute, either party may submit the Dispute for expert determination. The expert determination must be conducted by:

- (a) an independent industry expert agreed by the parties; or
- (b) where the parties fail to reach an agreement, an independent industry expert appointed by the Chief Executive Officer of the Australian Commercial Disputes Centre.

Within 10 business days of acceptance by the expert of the appointment, the claimant will submit in writing to the expert the claim and all the evidence which the claimant wishes the expert to take into account. Within 20 business days thereafter the other party will submit in writing to the expert that party's response to the claim, particulars of any counterclaim and all the evidence which that party wishes the expert to take into account.

Copies of documents sent to the expert must be sent to the other party at the same time. The expert may meet with the parties jointly but not separately and may ask questions of the parties which must be answered orally or in writing as requested by the expert.

The expert will:

- (i) act as an expert and not as an arbitrator;
- (ii) proceed in any manner he or she thinks fit;
- (iii) conduct any investigation which he or she considers necessary to resolve the dispute or difference;
- (iv) examine such documents, and interview such persons, as he or she may require; and
- (v) make such directions for the conduct of the determination as he or she considers necessary.

As soon as possible the Expert must give the parties the Expert's determination in writing as to the

respective rights and entitlements of the parties and the amount (if any) which the expert considers is due from one party to the other.

Unless otherwise agreed between the parties, the expert must notify the parties of their decision within 20 business days from the acceptance by the expert their appointment.

Unless otherwise agreed by the parties, the costs of expert determination will be shared equally between the parties, and each party will bear its own costs.

## 12.4 MEDIATION

Where a Dispute between a MRF Operator and the Scheme Coordinator remains unresolved after 20 business days following notice of the Dispute, either party may give written notice to the other party (Mediation Notice) requiring that the dispute be submitted to mediation. The mediation must be in accordance with the Resolution Institute Mediation Rules. The mediator must be:

- (a) agreed between the parties within 10 business days after the receipt of the Mediation Notice; or
- (b) if the parties fail to reach agreement, the President for the time being of the Resolution Institute will nominate the mediator.

Failing any agreement to the contrary by the parties, the costs of mediation will be shared equally between the parties, and each party will bear its own costs.

## 12.5 PAYMENT MUST NOT BE WITHHELD

No payment by the Scheme Coordinator to a MRF Operator shall be withheld on account of a Dispute except to the extent that such payment is the subject of such Dispute.

## 12.6 REPEAL OF PROTOCOL

The effect of Section 12 shall survive in the event that the Protocol is repealed.

# 13 COMPLIANCE AUDITS

An ACT authorised Scheme Compliance Officer may conduct audits or other checks to monitor compliance of a MRF Operator with the Protocol, including reporting of data in relation to quantities, weights, financial matters or any other matter which the ACT thinks fit, at any time.

A MRF Operator must cooperate with all persons conducting those audits or checks and provide all reasonable assistance and facilities required by the ACT authorised Scheme Compliance Officer. The ACT is not liable for the cost, if any, incurred by a MRF Operator associated with audits and other checks under this section.

# 14 FORMS AND STATEMENTS

The ACT may reasonably require any form, record, report, document or statement required under this Protocol to be in a particular form.

## 15 TIMELINE OF KEY DATES

ACTIVITY	KEY DATES AND DESCRIPTION
<b>Measurement and reporting of waste</b>	<b>MONTHLY</b> <ul style="list-style-type: none"> <li>• <b>Within 10 Business days of each month<sup>1</sup></b> <ul style="list-style-type: none"> <li>- Measurement &amp; Reporting of total materials received and dispatched by or on behalf of the MRF Operator</li> <li>- The number of kerbside and commercial containers delivered from the MRF for Reuse or Recycling, by Output Material Type, calculated using the EFi calculated by the Scheme Coordinator for the applicable period.</li> </ul> </li> </ul>
<b>Processing refund claims</b>	<b>EVERY QUARTER</b> <ul style="list-style-type: none"> <li>• <b>Within 28 calendar days from the end of the quarter<sup>2</sup></b> Making a processing refund claim (lodge with Scheme Coordinator, copy to Waste Manager)</li> <li>• <b>Within 20 Business days following the end of the 28-calendar day period<sup>3</sup></b> Providing a claim assessment (Scheme Coordinator to provide to MRF Operator)</li> <li>• <b>Within 5 Business days of issuing a claim assessment<sup>4</sup></b> Payment of processing refund (Scheme Coordinator to make payment)</li> </ul>
<b>Eligible Container Factor</b>	<b>Calculated each period</b> <ul style="list-style-type: none"> <li>• <b>At any time during a period<sup>5</sup></b> Eligible Container Factor to be calculated in accordance with Sampling Plan</li> <li>• <b>Before, or within 10 Business days* of the end of a quarter<sup>6</sup></b> <ul style="list-style-type: none"> <li>- Waste Manager to approve Eligible Container Factor</li> <li>- Scheme Coordinator to publish Eligible Container Factor</li> </ul> </li> </ul>
<b>Sampling Plan</b>	<b>ANNUAL<sup>7</sup></b> <ul style="list-style-type: none"> <li>• <b>Before 15 June of each year*</b> Scheme Coordinator to submit Sampling Plan for next financial year</li> <li>• <b>Before 30 June of each year*</b> Waste Manager to approve Sampling Plan</li> </ul> <p>*Sampling Plan is based on financial year. Mandatory timeframes are not specified in the MRF Protocol. The 15 June and 30 June dates in this cell are to allow reasonable time for Waste Manager consideration and approval.</p>

<sup>1</sup> Section 7.5

<sup>2</sup> Section 7.8

<sup>3</sup> Section 8.6

<sup>4</sup> Section 8.7

<sup>5</sup> Section 9.1; see also Sampling Plan

<sup>6</sup> Section 9.3; Section 9.4 and used for documentation required by Section 7.8E

<sup>7</sup> Section 9.2



ACTIVITY	KEY DATES AND DESCRIPTION
<p><b>Annual Recycling Statement</b></p>	<p><b>ANNUAL</b></p> <ul style="list-style-type: none"> <li>• <b>Before 31 May of each year<sup>8</sup></b> The independent auditor for the Annual Recycling Statement is to be proposed by a MRF Operator to the Waste Manager and requires approval in writing by the Waste Manager</li> <li>• <b>Before 30 August of each year<sup>9</sup></b> Each MRF operator to prepare an Annual Recycling Statement and submit to the Scheme Coordinator and Territory</li> </ul>
<p><b>Annual Throughput Reconciliation</b></p>	<p><b>ANNUAL</b></p> <ul style="list-style-type: none"> <li>• <b>Before 30 August of each year<sup>10</sup></b> Each MRF operator to prepare an Annual Throughput Reconciliation and submit to the Scheme Coordinator and Territory</li> </ul>
<p><b>Annual Stocktake</b></p>	<p><b>ANNUAL</b></p> <ul style="list-style-type: none"> <li>• <b>On 30 June of each year<sup>11</sup></b></li> <li>• Each MRF operator must undertake a stocktake of all source materials, output materials and ‘other’ materials.</li> </ul>
<p><b>Refund Sharing Agreements</b></p>	<p><b>VARIABLE</b></p> <ul style="list-style-type: none"> <li>• <b>Before the beginning of the relevant quarter<sup>12</sup></b></li> <li>- A Refund Sharing Agreement approved in writing by the Waste Manager, must be in place before the beginning of the respective quarter(s) to which the claim relates.</li> <li>- It is the responsibility of a MRF Operator and the respective jurisdiction to provide to the Waste Manager, with sufficient time for assessment and approval, a copy of a Refund Sharing Agreement. To remove any doubt, sufficient time is considered to be at least 15 business days before the beginning of the respective quarter(s) to which the claim relates in order for the Waste Manager to properly assess and approve the Refund Sharing Agreement.</li> </ul>

<sup>8</sup> Section 11.1

<sup>9</sup> Section 10.1

<sup>10</sup> Section 10.2

<sup>11</sup> Section 10.3

ACTIVITY	KEY DATES AND DESCRIPTION
<p><b>Review of MRF Protocol</b></p>	<p><b>VARIABLE</b></p> <ul style="list-style-type: none"> <li>• <b>No fixed timeline<sup>13</sup></b> MRF Protocol to be reviewed by the Territory when considered appropriate by the ACT Government.</li> </ul>
<p><b>MRF operator request to amend or review Processing Refund claim assessment</b></p>	<p><b>VARIABLE</b></p> <ul style="list-style-type: none"> <li>• <b>If applicable<sup>14</sup></b> The written request must be submitted from the MRF Operator to the Scheme Coordinator within 70 Business Days of the date of the initial claim.</li> <li>• <b>If applicable<sup>15</sup></b> <ul style="list-style-type: none"> <li>- The written request must be submitted from the MRF Operator to the Scheme Coordinator within 45 Business days after the assessment is made.</li> <li>- The Scheme Coordinator must give written notice of the reconsideration within 45 Business days after the request was received from the MRF Operator.</li> </ul> </li> </ul>
<p><b>Dispute resolution</b></p>	<p><b>VARIABLE</b></p> <ul style="list-style-type: none"> <li>• <b>If applicable</b> See section 12 for requirements and timelines of Dispute Resolution Process (negotiation of dispute; executive negotiation; expert determination).</li> </ul>

<sup>12</sup> Section 3.2  
<sup>13</sup> Section 4  
<sup>14</sup> Section 8.9  
<sup>15</sup> Section 8.11

PROCESSING REFUND PROTOCOL



Transport Canberra and City Services

insert date approved