

# Local government refund sharing protocol Victoria's Container Deposit Scheme





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# 1 Scope of this document

The Local government refund sharing protocol covers the matters outlined in section 104 of the *Circular Economy (Waste Reduction and Recycling) Act 2021 (CE Act)*. This document should be read in conjunction with the Material recovery facilities protocol.

# 2 Circular Economy (Waste Reduction and Recycling) Act 2021

The overall objectives of the CE Act outlined in section 5 and specific reference to the hierarchy set out in section 8 (3) must be considered by participating parties when implementing this protocol.

Section 104 of the CE Act provides for the Head, Recycling Victoria to issue a Local government refund sharing protocol.

This protocol defines the method for calculating the minimum share of any recovery amount issued by the Scheme Coordinator. This protocol may be used when a contract between a local government council or Alpine Resorts Victoria (local government) and a material recovery facility (MRF) operator is in place for municipal recycling service.

The Local government refund sharing protocol sets out:

- the minimum share of any refund amount that parties are entitled to
- the parties involved in this contract as a local government and a MRF operator
- the scope of contract, pertaining only to municipal recycling services related to suitable eligible containers as defined in the CE Act.

This Local government refund sharing protocol is considered a condition of any contract between a local government and a MRF operator unless the contract specifically addresses the subject matter of the protocol.

MRF operators and local governments may negotiate a sharing amount agreement independent of this protocol.

The Head, Recycling Victoria may vary or revoke the Local government refund sharing protocol at any time.

# 3 Protocol framework

The *Local government refund sharing protocol* is supported by the following documents:

## 1. Recovery Agreement

This agreement outlines the terms and conditions between the Scheme Coordinator and the MRF operators. It includes provisions for the refund amount the Scheme Coordinator must pay to a MRF operator.

## 2. Local Government Refund Sharing Protocol

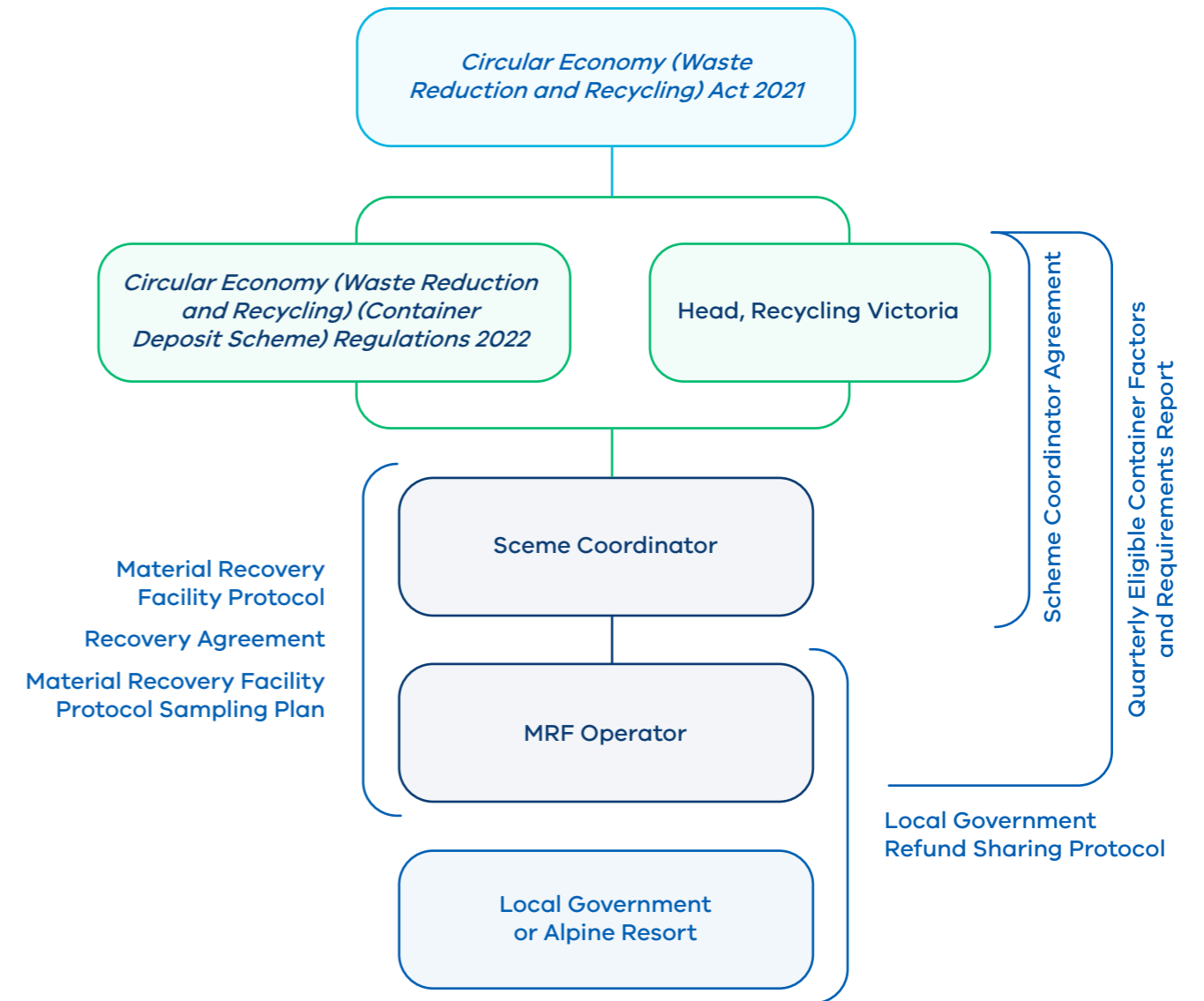
This protocol, issued by the Head, Recycling Victoria, sets out the refund amount that the Scheme Coordinator must pay to a specified MRF operator or a class of MRF operators, or in relation to a class of suitable eligible containers (Section 103).

## 3. Material Recovery Facilities Protocol Sampling Plan

This sampling plan includes the methodology for establishing eligible container factors (ECFi) for each output material types, processes, requirements, and timeframes for the Scheme Coordinator to publish the eligible container factor for each output material type each quarter.

## 4. Quarterly Eligible Container Factors and Requirements Report

This report is published by the Scheme Coordinator quarterly and includes suitable eligible containers



and eligible container factors for each material type for use by participating parties in the upcoming quarter.

These supporting documents provide further details and guidelines for the implementation of the Local government refund sharing protocol and their relationship is shown in Figure 1.

Figure 1 - Protocol framework

## 3.1 Principles of the protocol framework

The protocol framework aims to provide a transparent, fair and cost-effective process that:

- is replicable
- is transferrable to material recovery facilities of all types and sizes
- is auditable
- aims to eliminate the opportunity for fraud
- to the extent possible, provides the most accurate representation of the amount of eligible material redeemable under the scheme presented in household bins or delivered to the MRF by other agreements.

## 4 Purpose of the protocol

The purpose of the Local government refund sharing protocol is to ensure equitable and transparent sharing of refunds among contracted parties involved in providing municipal recycling services that collect, sort and separate suitable eligible containers. It provides a framework that promotes accountability and cooperation among the involved parties to determine and distribute refund amounts attributed to returned suitable eligible containers.

The Local government refund sharing protocol:

- defines the minimum share of any refund amount to which a local government and a MRF operator are entitled
- establishes the method for determining the minimum share of a refund amount, ensuring that this method is in accordance with any prescribed requirements
- serves as a condition of any contract between a local government and a MRF operator unless the contract specifically provides for the subject matter of the protocol
- allows for the variation or revocation of the protocol by the Head, Recycling Victoria at any time.

## 5 Definitions and abbreviations

The purpose of this section is to provide clear definitions of the terms and abbreviations used within the protocol.

Definitions and abbreviations	
<b>Approved incurred costs</b>	Approved incurred costs are costs defined by the <i>Material Recovery Facilities Protocol</i> and the <i>Local Government Refund Sharing Protocol</i> that a participating party may claim in order to meet the <i>Material Recovery Facilities Protocol Sampling Plan</i> and <i>Recovery Agreement requirements</i> .
<b>Collection Contractor</b>	A collection contractor is a third party engaged on behalf of local government or a business to provide waste management and resource recovery services that involves the collection and deposit of suitable eligible containers at a MRF.
<b>Eligible container factors</b>	The eligible container factors are state-wide averages of the number of suitable eligible containers in each kilogram of a material type (e.g., glass or PET). They are used to determine how much a MRF operator is entitled to claim, if the MRF operator uses the 'weight' method, rather than a direct count of suitable eligible containers.
<b>Eligible containers</b>	As defined under Section 3 (1) of the CE Act, eligible container means a container designed to contain a beverage that is produced for the sale of the beverage to a consumer while the container is sealed, other than a container that is prescribed not to be an eligible container.
<b>Ineligible container</b>	An ineligible container is a container which has been deemed ineligible by the Head, Recycling Victoria, upon assessment under Section 99 of the CE Act, or a suitable eligible container for which a refund amount has previously been claimed or supplied outside Victoria.

Definitions and abbreviations	
<b>Lawful site</b>	A lawful site is a resource recovery destination that complies with the Permissions Framework presented by the <i>Environment Protection Act 2017</i> , the <i>Environment Protection Regulations 2021</i> , the <i>General Environmental Duty</i> and subordinate regulations administered by the Environment Protection Authority Victoria (EPA).
<b>Local government</b>	Local government refers to any local government or Alpine Resorts Victoria responsible for the governance of a municipal area in Victoria.
<b>Local Government Refund Sharing Protocol</b>	As defined in Section 104 of the CE Act, the Local Government Refund Sharing Protocol sets out the minimum share and methods for calculating allocation of the net refund amount between a council or one of the six alpine resorts under the management of Alpine Resorts Victoria and a material recovery facility operator.
<b>Material Recovery Facilities Protocol</b>	As defined in Section 103 of the CE Act, the Material Recovery Facilities Protocol sets out the method for determining the refund amount that the Scheme Coordinator must pay.
<b>Material Recovery Facilities Protocol Sampling Plan</b>	The Scheme Coordinator will issue a <i>Material Recovery Facilities Protocol Sampling Plan</i> as a requirement of the <i>Material Recovery Facilities Protocol</i> .
<b>Material recovery facility</b>	As defined in the Section 3 of the CE Act, a material recovery facility is: <ul style="list-style-type: none"> <li>(a) a mixed-stream facility that sorts — <ul style="list-style-type: none"> <li>(i) mixed recycling from municipal residual waste into separate paper, plastic, metal and glass streams or other prescribed material; or</li> <li>(ii) industrial waste; or</li> </ul> </li> <li>(b) a single-stream material recovery facility that — <ul style="list-style-type: none"> <li>(i) sorts material that has been sorted at a mixed-stream material recovery facility; or</li> <li>(ii) takes single streams of waste and separates the component grades of the material.</li> </ul> </li> </ul>
<b>Material recovery facility operator</b>	A material recovery facility operator operates one or more lawful material recovery facilities that receive suitable eligible containers from a permitted material source in Victoria.
<b>Municipal recycling service</b>	As defined in section 3 of the CE Act - means a service provided by or on behalf of a local government: <ul style="list-style-type: none"> <li>(a) that collects, manages, transports, and processes or sorts, municipal recycling material; and</li> <li>(b) that is prescribed to be a municipal recycling service</li> </ul> For the purposes of this protocol, if regulations to prescribe a municipal recycling service are not in place, municipal recycling service means a service provided by, or on behalf of, a local government that collects, manages, transports, and processes or sorts, municipal recycling material. but does not include any service prescribed not to be a municipal recycling service.

## Definitions and abbreviations

<b>Output material types</b>	<p>Material types containing suitable eligible containers presented by the MRF operator for reuse or recycling. One the following output material types must be selected.</p> <ol style="list-style-type: none"> <li>1. Aluminium</li> <li>2. PET</li> <li>3. HDPE</li> <li>4. mixed plastics (combination of all plastics or segregated plastic excluding PET and HDPE)</li> <li>5. glass</li> <li>6. steel</li> <li>7. LPB</li> <li>8. Any other eligible containers or container blend as approved by Recycling Victoria.</li> </ol>
<b>Permissions Framework</b>	<p>Means the Permissions Framework presented by the <i>Environment Protection Act 2017</i>, the <i>Environment Protection Regulations 2021</i>, the <i>General Environmental Duty</i>, and subordinate regulations administered by the Environment Protection Authority Victoria.</p>
<b>Permitted material source</b>	<p>A permitted material source is a material or collection source that MRF operators are permitted to sort and claim a refund amount for under a Recovery Agreement. The permitted material sources are published in the <i>Quarterly Eligible Container Factors and Requirements Report</i>.</p>
<b>Quarter</b>	<p>a) A quarter is one of the following periods in the year:</p> <ul style="list-style-type: none"> <li>• 1 July to 30 September</li> <li>• 1 October to 31 December</li> <li>• 1 January to 31 March</li> <li>• 1 April to 30 June.</li> </ul>
<b>Quarterly Eligible Container Factors and Requirements Report</b>	<p><i>The Quarterly Eligible Container Factors and Requirements Report</i> details the eligible container factors to be used in the next claim period, along with other requirements that the MRF operator must meet to claim a refund amount.</p>
<b>Recovered</b>	<p>Recovered means an outcome where products and materials have been managed in accordance with the hierarchy set out in Section 8(3) of the CE Act.</p>
<b>Recovery</b>	<p>Recovery means ensuring that products and materials are managed in accordance with the hierarchy set out in Section 8(3) of the CE Act.</p>
<b>Recovery Agreement</b>	<p>Recovery Agreement refers to an agreement between the Scheme Coordinator and one or more MRF operators requiring the Scheme Coordinator to pay to the MRF operator(s) refund amounts for recycling and resource recovery of suitable eligible containers. A valid Recovery Agreement is taken to satisfy requirements as defined in Section 81 (c) of the CE Act, (recovery arrangements). The Scheme Coordinator may enter into multiple Recovery Agreements.</p>

## Definitions and abbreviations

<b>Recycling</b>	<p>As defined in Section 3 of the CE Act, including:</p> <ol style="list-style-type: none"> <li>(a) reusing waste resources; and</li> <li>(b) recycling or reprocessing waste resources to make the same or different products.</li> </ol>
<b>Refund amount</b>	<p>As defined in Section 3 (1) of the CE Act, a refund amount in relation to a suitable eligible container or to a MRF operator, means</p> <ol style="list-style-type: none"> <li>(a) the amount prescribed to be the refund amount in relation to that eligible container or MRF operator; or</li> <li>(b) if no amount is prescribed in relation to a suitable eligible container or to a MRF, the amount determined in accordance with any material recovery facilities protocol issued under Section 103 that applies to that eligible container or MRF operator.</li> </ol>
<b>Scheme Coordinator</b>	<p>As defined in Section 79 (a) of the CE Act, a Scheme Coordinator manages and coordinates the administration of the container deposit scheme throughout Victoria.</p>
<b>Scheme Coordinator Agreement</b>	<p>Means an agreement entered into by the Scheme Coordinator and the Minister under Section 80 of the CE Act.</p>
<b>Suitable eligible containers</b>	<p>As defined under Section 3 (1) of the CE Act, suitable eligible container means an eligible container approved to be a suitable eligible container under section 99(3).</p> <p>For the purposes of this protocol as it relates to identifying suitable eligible containers through audit and assurance processes, an eligible container meeting the requirements set out in Part 2 section 6 of the <i>Circular Economy (Waste Reduction and Recycling) (Container Deposit Scheme) Regulations 2022</i> may be counted as a suitable eligible container.</p>
<b>Zone Operator</b>	<p>A Zone Operator means a person appointed as a network operator under section 91 of the CE Act.</p>

Terms within this protocol have the same meaning as defined within the CE Act.

## 6 Objectives

The Material Recovery Facilities Protocol aims to:

- support Victoria's transition to a circular economy
- protect the integrity of Victoria's Container Deposit Scheme (CDS Vic)
- maximise legitimate returns to communities
- support equity between participants
- promote efficiency.

In particular, the Local government refund sharing protocol aims to promote transparent sharing of refund amount allocations to local governments for suitable eligible containers collected through municipal recycling services.

## 7 Participating parties

Participating parties to the Local government refund sharing protocol include, but are not limited to:

- the Scheme Coordinator
- MRF operators
- local government or Alpine Resort
- collection contractors.

A participating party is any party who is a signatory to a Recovery agreement, or:

- holds a valid contract with a MRF operator that has executed a Recovery agreement with the Scheme Coordinator
- holds a contract with a collection contractor providing municipal recycling services to local government utilising the services of a MRF operator that has executed a Recovery agreement with the Scheme Coordinator.

## 8 Applicability of the protocol

The *Local government refund sharing protocol* shall apply whenever there is a contractual relationship involving collecting, transporting, and sorting suitable eligible containers through a municipal recycling service in Victoria.

The Local government refund sharing protocol applies when:

- a MRF operator sorts suitable eligible containers collected through municipal recycling services in Victoria
- the relevant MRF operator, collection contractor (where relevant) and local government have not agreed otherwise to the sharing of any refund through CDS Vic in accordance with section 104(3) of the CE Act.

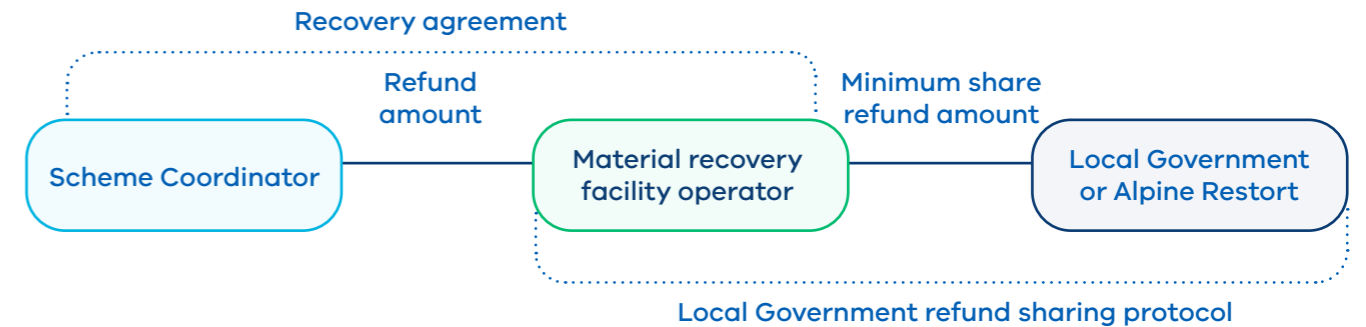
MRF operators and local governments may negotiate a refund amount allocation agreement independent of this protocol.

## 9 Refund amount payable sharing mechanism

The refund amount payable by the Scheme Coordinator is detailed in the *Material recovery facilities protocol*. The refund amount payable is determined by the Scheme Coordinator, based on the number of suitable eligible containers sorted and delivered for recovery at a lawful destination in the reporting quarter, with adjustment allowed for any accepted material that was rejected in the previous quarter.

Where a Recovery agreement applies to a MRF operator, the refund amount must be distributed according to the Local government refund sharing protocol. This relationship is shown in Figure 2 below.

Figure 2 - Distribution of refund amount



More details on distribution and reporting requirements under Recovery agreements are available in the *Material recovery facilities protocol*.

## 10 Recovery of approved incurred costs

The MRF operator may only seek to recover approved incurred costs outlined in this *Local government refund sharing protocol*. For MRF operators, the recovery of approved incurred costs is achieved through adjustment of the Refund amount provided by the Scheme Coordinator. The net refund amount is distributed between participating parties as outlined in this Local government refund sharing protocol.

The following activities related to administration and auditing are considered approved incurred costs for MRF operators:

- Administration activities only to count or recount suitable eligible containers and output material types required by the Material recovery facilities protocol, Material recovery facilities protocol sampling plan and respective Recovery agreement to claim a refund amount from the Scheme Coordinator.
- Audits conducted internally or by an independent third party to count or recount suitable eligible containers and output material types required by the Material recovery facilities protocol, *Material recovery facilities protocol sampling plan* and respective Recovery agreement to claim a refund amount from the Scheme Coordinator.

Approved incurred costs claimed by the MRF operator complete with supporting evidence must be reported to the Scheme Coordinator and other relevant participating parties within 20 business days of the end of each month.

## 11 Minimum share refund amount

The Local government refund sharing protocol determines the minimum share refund amount and associated limits for allocation of refund amounts as well as the method for calculating this minimum share for each party. The minimum share determination depends on:

- the refund amount payable by the Scheme Coordinator
- the approved incurred costs deducted by the MRF operator.

The minimum share is defined as the refund amount payable by the Scheme Coordinator less approved incurred costs to the MRF operator. The minimum share refund amount allocated to local governments shall be 50% of the net refund amount with the remaining 50% retained by the MRF operator.

Minimum share limitations for each participating party are listed below:

- The Scheme Coordinator is limited to approved incurred costs only as outlined in the *Material recovery facilities protocol*.
- A MRF operator is limited to 50% of the net refund amount only.
- A local government is limited to 50% of the net refund amount only.

A collection contractor is not entitled to any portion of the refund amount unless a local government agrees otherwise.

## 12 Refund amounts for material recovery facility operators

### 12.1 Requirements

A MRF operator may only claim approved incurred costs.

Evidence must be submitted to relevant participating parties to verify any approved incurred costs in relation to a refund claimed through CDS Vic. This must include all compliance requirements stipulated in a Recovery agreement, the Material recovery facilities protocol, and this Local government refund sharing protocol.

Approved incurred costs for the MRF operator must be reported the Scheme Coordinator within 20 business days of the end of each month.

### 12.2 Calculating material recovery facility operator allocation

The final allocation of refund amount for MRF operators accounting for approved incurred costs is shown below.

$$RA_{MRF} = \frac{RA - \Sigma AIC}{2}$$

$RA_{MRF}$  is the final allocation of refund amount for the MRF operator.

$RA$  is the refund amount payable by the Scheme Coordinator, as determined by the *Material recovery facilities protocol*.

$\Sigma AIC$  is the sum of approved incurred costs to the MRF operator as defined in the *Material recovery facilities protocol*.

## 13 Refund amounts for local government or Alpine Resorts Victoria

### 13.1 Requirements

A local government or Alpine Resorts Victoria is entitled to 50% of the net refund amount only, where the net refund amount is equal to the refund amount payable by the Scheme Coordinator minus the sum of approved incurred costs to the MRF operator as defined in Local government refund sharing protocol.

A local government or Alpine Resorts Victoria is not eligible to claim incurred costs.

### 13.2 Calculating material recovery facility operator allocation

The final allocation of refund amount for a local government or Alpine Resorts Victoria is shown below.

$$RA_{MRF} = \frac{RA - \Sigma AIC}{2}$$

$RA_{MRF}$  is the final allocation of refund amount for the local government or Alpine Resorts Victoria.

$RA$  is the refund amount payable by the Scheme Coordinator, as determined by the *Material recovery facilities protocol*.

$\Sigma AIC$  is the sum of approved incurred costs to the material recovery facility operator as defined in *Local government refund sharing protocol*.

A refund amount cannot be negative.



## 14 Payment of refund amounts

The refund amounts payable are calculated by the Scheme Coordinator and will be paid quarterly in arrears no later than 45 business days after the quarter.

The net refund amount payable to local governments must be calculated by the MRF operator according to the requirements and allocations outlined in the minimum share section above.

The net refund amount payable to local governments must be paid by the MRF operator within 5 business days following the payment received by the MRF operator.

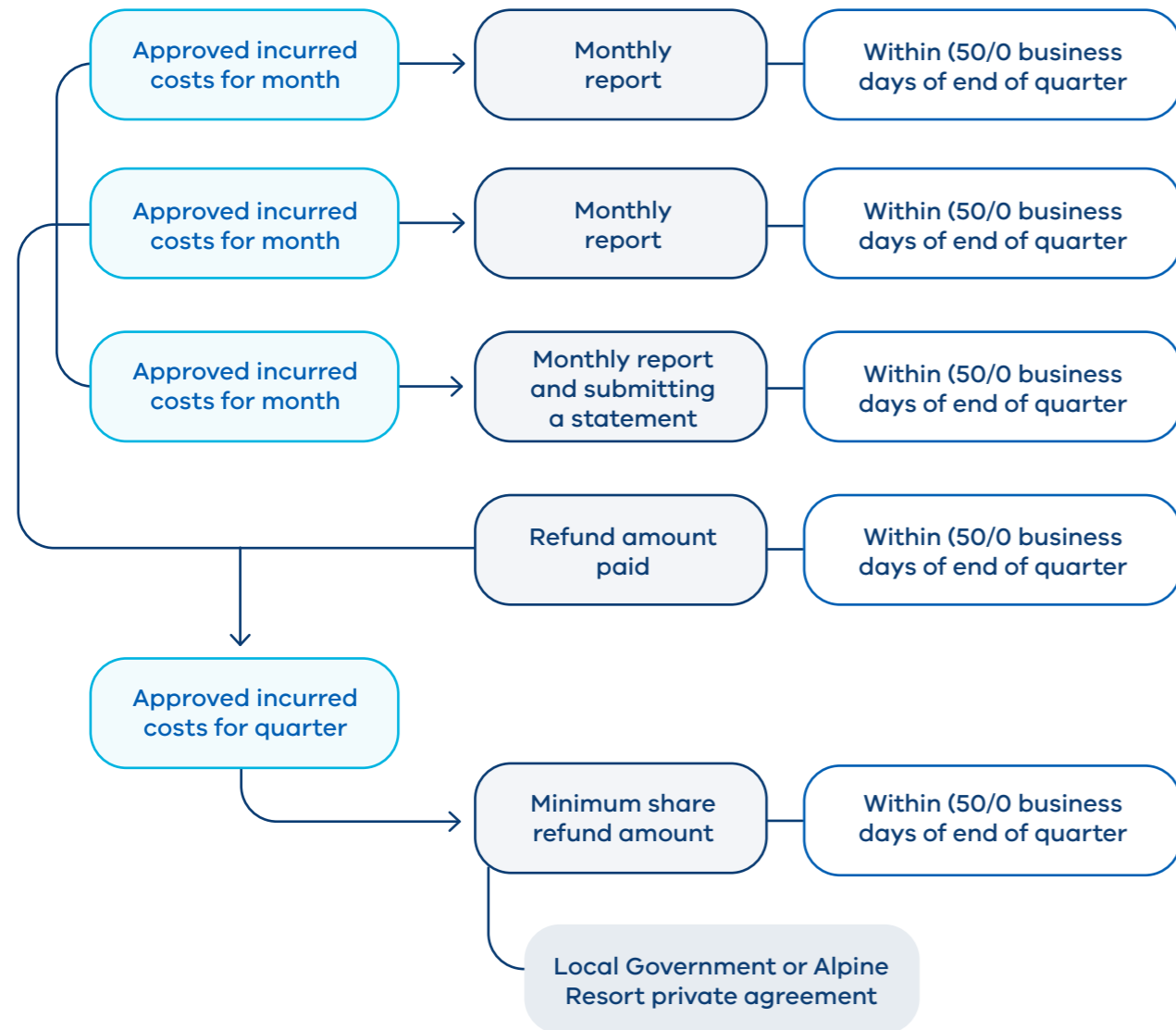


Figure 3 - Payment and reporting timeframes of refund amounts

## 15 Submitting a statement

The process for MRF operators submitting a statement of claim is outlined in the Recovery agreement between the MRF operator and the Scheme Coordinator. Consistent with the requirements set out in the scheme payments and contributions methodology, the Scheme Coordinator must pay eligible MRF operators quarterly in arrears from the scheme payment account, in accordance with the *Material recovery facilities protocol* and the relevant Recovery agreement.

## 16 Timeframes

A MRF operator must submit a statement of claim no later than 20 business days after the end of a quarter.

Within 20 business days of receiving a statement of claim, the Scheme Coordinator must audit, validate and if required, agree to any adjustments with the MRF operator.

Upon agreement, the Scheme Coordinator must prepare a recipient created tax invoice (adjusted if required) and provide payment of the aggregate amount to the MRF operator within 5 business days.

Following payment of the refund amount, the MRF operator must distribute the minimum share to local governments within 5 business days.

The timeframes for payment of refund amounts are outlined in Figure 3.

## 17 Reporting and record keeping

Reporting requirements for the Local government refund sharing protocol interface with reporting requirements of the Material recovery facilities protocol.

The MRF operator is required to formalise any approved incurred costs no more than 20 business days from the end of the quarter.

No more than 20 business days from the end of the month, the MRF operator must submit a report under the reporting requirements of the Material recovery facilities protocol. The report must include the following:

- Details of the reporting criteria above for suitable eligible containers received, sorted, stored, and dispatched in that quarter.
- The recovery outcome of suitable eligible containers dispatched in the previous quarter. The recovery outcome is to be recorded by bill of lading, invoice and weighbridge receipt received by the operator of the lawful recycling destination.
- Reporting of measured weight must be in tonnes to 2 decimal points and in accordance with the measurement requirements.
- Reporting of the number of suitable eligible containers must be an integer (whole number).
- Both the weight and number of suitable eligible containers. The MRF operator is required to use the eligible container factor as published in the Quarterly eligible container factors and requirements report by the Scheme Coordinator to calculate the weight or number of suitable eligible containers as required depending on the chosen sampling method.
- Any system established by the Scheme Coordinator to submit reports.
- Any format for reporting established by the Scheme Coordinator to submit reports, as published in Quarterly eligible container factors and requirements report.

The Scheme Coordinator is required to report incurred costs to participating parties on a quarterly basis at the time of payment of the refund amount.

## 18 Assurance

Mandatory reporting and auditable record keeping provides assurance to participating parties. The Scheme Coordinator has the right to require an audit of a MRF for assurance purposes in relation to the requirements of this protocol and Recovery agreement at any time.

Participating parties may request an assurance audit through the Scheme Coordinator.

The recovery outcome is to be recorded by bill of lading, invoice and weighbridge receipt received from the operator of the lawful site recording the transaction of suitable eligible containers for the purpose of recovery. The Scheme Coordinator shall determine the reporting requirements to establish evidence of the recovery outcome.

Regular assurance audits will be conducted at the frequency stipulated by the Scheme Coordinator. The Scheme Coordinator may elect to conduct an assurance audit due to:

- irregularities in data or information that may indicate a breach of process or control and a potential for fraud or corruption
- changes in process
- the introduction of new systems or technology by a MRF operator.

The Scheme Coordinator has the right to audit any aspect of the collection, sorting, storage, dispatch, and recovery of suitable eligible container materials claimed for a refund to ensure the material is being recovered as it relates to the output material types containing suitable eligible containers.

The Scheme Coordinator shall have the right to conduct an audit itself or through a third party engaged on their behalf to review past claims, methods, systems and counting error.

Approved incurred costs must be documented in an auditable format that demonstrates the costs incurred were directly related to compliance with the Material recovery facilities protocol, *Material recovery facilities protocol sampling plan* and any Recovery agreement. All approved incurred costs must be reported to the Scheme Coordinator within the reporting timeframes specified and where requested made available to Recycling Victoria.

All participating parties must comply with applicable local, state, and federal laws and regulations.

All participating parties collecting and storing data are to adhere to appropriate protocols related to data privacy and security, as required by the Recovery agreement.

Participating parties will be required to retain records according to the Recovery agreement. Members of staff and any representative of any participating parties must disclose any potential, perceived and actual conflicts of interest.

The reporting framework and assurance contained in the *Material recovery facilities protocol* present the minimum fraud prevention measures. The Scheme Coordinator may implement additional reasonable fraud prevention measures as required to protect the objectives of this protocol and the general integrity of CDS Vic.

The Recovery agreement constitutes a confidential information-sharing agreement between participating parties to that Recovery agreement only. Participating parties by default must not share any reported identifiable or sensitive information through compliance with the terms of a Recovery agreement.

Provisions for regulation of participation in CDS Vic are enabled through the CE Act and subordinate tools.





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