

LC 578
2021 Regular Session
34000-003
11/6/20 (STN/ps)

D R A F T

SUMMARY

Requires producers of covered products to join producer responsibility organization unless exempt. Requires producer responsibility organization to submit program plan to Department of Environmental Quality. Requires producer responsibility organizations to reimburse local governments for certain expenses.

Establishes Oregon Recycling System Advisory Council.

Directs department to establish uniform statewide collection list.

Establishes Producer Responsibility Fund.

Establishes Waste Prevention and Reuse Fund.

Prohibits sale in this state of products with deceptive or misleading claims about recyclability.

Requires commingled recycling processing facility to obtain disposal site permit.

Modifies definition of “opportunity to recycle.”

Imposes civil penalty not to exceed \$25,000 for each violation of provisions of Act.

A BILL FOR AN ACT

Relating to modernizing Oregon’s recycling system; creating new provisions; amending ORS 90.318, 459.005, 459.015, 459.035, 459.772, 459.995, 459A.005, 459A.007, 459A.008, 459A.025, 459A.075 and 459A.080; and repealing ORS 459A.675, 459A.680 and 459A.685.

Be It Enacted by the People of the State of Oregon:

MODERNIZING OREGON’S RECYCLING SYSTEM

(Legislative Findings; Definitions)

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

SECTION 1. Sections 2 to 36 of this 2021 Act are added to and made a part of ORS chapter 459A.

SECTION 2. Legislative findings. The Legislative Assembly finds and declares that:

(1) Oregon's statewide recovery rate, which seeks to preserve public health, safety and welfare and conserve energy and natural resources, has declined each year between 2013 and 2018, and that Oregon is not on track to meet the statewide waste recovery and generation goals that the Legislative Assembly established in 2015.

(2) The way Oregon's residents use and consume materials and products, and the way residents manage them when no longer wanted, has changed significantly in the last 35 years since Oregon's first recycling programs were established, and that the state's recycling system has been unable to adapt to such changes. These factors have created unintended consequences, such as the deterioration of natural systems regionally and worldwide, as well as increased levels of pollution and reductions in human well-being, especially for the most vulnerable populations.

(3) It is necessary to adopt a policy that will minimize such unintended consequences across the entire life cycle of products and that will require producers of packaging and printed paper sold or distributed in Oregon to help finance the management of and ensure an environmentally sound stewardship program for their products.

(4) It is the State of Oregon's policy to prioritize practices that prevent and reduce the negative environmental, social, economic and health impacts of production, consumption and end-of-use management of products and packaging across their life cycle. It is the obligation of producers to share in the responsibility to reduce those impacts.

SECTION 3. Definitions. As used sections 2 to 36 of this 2021 Act:

(1) "Aggregation point" means a location where covered products

1 are transferred from a collection vehicle into a container or vehicle
2 that is used to transport the covered products to a processing facility.

3 (2) “Commingled recycling” means the recycling or recovery of two
4 or more materials that are mixed together and that generally would
5 be separated into individual materials at a commingled recycling pro-
6 cessing facility in order to be marketed.

7 (3) “Commingled recycling processing facility” means a facility
8 that:

9 (a) Receives source separated recyclable materials that are
10 commingled mixtures of commodity types from a collection program
11 required under ORS 459A.007; and

12 (b) Separates the recyclable materials described in paragraph (a)
13 of this subsection into marketable commodities or streams of materi-
14 als that are intended for use or further processing by others.

15 (4) “Contaminant” means any material set out for collection that
16 is not on the list of materials accepted for collection by a collection
17 program or a material shipped to a recycling end market that is not
18 accepted or desired by that end market.

19 (5) “Contamination” means the presence of one or more contam-
20 inants in a recycling collection or commodity stream in an amount
21 or concentration that negatively impacts the value of the material or
22 negatively impacts a processor’s ability to sort that material.

23 (6)(a) “Covered product” means:

24 (A) Packaging;

25 (B) Printing and writing paper; and

26 (C) Food serveware generally intended for single use, including
27 but not limited to:

28 (i) Paper or plastic plates, cups, bowls, cutlery or straws;

29 (ii) Aluminum foil; and

30 (iii) Pie plates.

31 (b) “Covered product” does not include:

1 (A) A beverage container, as defined in ORS 459A.700, that is re-
2 turned for the refund value established by ORS 459A.705 and is recy-
3 cled;

4 (B) Bound books; and

5 (C) Napkins, paper towels or other paper intended to be used for
6 cleaning or the absorption of liquids.

7 (7) “Large producer” means a producer that:

8 (a) In the most recent calendar year, produced more than 1,000
9 metric tons of covered products for use in this state; or

10 (b) Is among the 50 largest producers of covered products in this
11 state, based on market share.

12 (8) “Litter” means waste that is improperly placed so as to be a
13 nuisance or aesthetic, health or environmental concern.

14 (9) “Local government” means:

15 (a) A city with a population of 4,000 or more;

16 (b) A county;

17 (c) A metropolitan service district; or

18 (d) A local government as described by the Environmental Quality
19 Commission by rule.

20 (10) “Local government’s agent” includes a collection service fran-
21 chise holder under ORS 459A.085 or any person authorized by a city,
22 county or metropolitan service district to provide collection service.

23 (11) “Market share” means a producer’s percentage of all covered
24 products sold in this state during a specified time period, as calculated
25 in accordance with methods established by the Environmental Quality
26 Commission by rule.

27 (12) “Mechanical recycling” means a form of recycling that does not
28 change the basic molecular structure of the material being recycled.

29 (13) “Metropolitan service district” means a metropolitan service
30 district established under ORS chapter 268.

31 (14) “Nonprofit organization” means an organization or group of

organizations described in section 501(c)(3) of the Internal Revenue Code that is exempt from income tax under section 501(a) of the Internal Revenue Code.

(15) “Packaging” means:

(a) Materials used for the containment or protection of products, including but not limited to paper, plastic, glass or metal or a mixture thereof;

(b) Single-use bags, including but not limited to shopping bags;

(c) Take-out containers;

(d) Nondurable materials used in storage, shipping or moving, including but not limited to moving boxes, file boxes and folders; and

(e) Other materials and forms, as determined by the Environmental Quality Commission by rule.

(16) “Printing and writing paper” includes, but is not limited to, newspaper, magazines, flyers, brochures, booklets, catalogs, telephone directories and paper used for copying, writing or other general use.

(17) “Processor” means a person that owns or operates a commingled recycling processing facility.

(18) “Producer” means any person, irrespective of the selling technique used, including that of remote sale, that:

(a) Manufactures a covered product or sells, offers for sale or distributes the product in this state under the manufacturer’s own brand;

(b) Is the owner or licensee of a trademark under which a covered product is sold, offered for sale or distributed in this state, whether or not the trademark is registered in this state;

(c) Sells a covered product in or imports a covered product into the United States for use in a commercial enterprise that sells, offers for sale or distributes the covered product in this state; or

(d) Sells, offers to sell or distributes a covered product in this state.

(19) “Producer responsibility organization” means a nonprofit organization established by a producer or group of producers to admin-

1 **ister a producer responsibility program approved by the Department**
2 **of Environmental Quality under section 7 of this 2021 Act.**

3 **(20) “Producer responsibility program” means a statewide program**
4 **for the responsible management of covered products that is operated**
5 **by a producer responsibility organization pursuant to a plan approved**
6 **by the Department of Environmental Quality under section 7 of this**
7 **2021 Act.**

8 **(21) “Responsible end market” means a materials market in which**
9 **the recycling or recovery of materials or the disposal of contaminants**
10 **is conducted in a way that:**

11 **(a) Benefits the environment; and**

12 **(b) Minimizes risks to public health and worker health and safety.**

13 **(22) “Small producer” means a producer that:**

14 **(a) Is a nonprofit organization;**

15 **(b) Is a public body as defined in ORS 174.109;**

16 **(c) Has a gross revenue of less than \$1 million in this state for the**
17 **organization’s most recent fiscal year; or**

18 **(d) Produced or sold in Oregon less than one metric ton of covered**
19 **products for use in this state in the most recent calendar year.**

20 **(23) “Specifically identified material” means a material or covered**
21 **product identified by the Department of Environmental Quality under**
22 **section 19 (8) of this 2021 Act.**

23
24 **(Producer Responsibility Organizations)**
25

26 **SECTION 4. Duties of producers and producer responsibility organ-**
27 **izations. (1) Except as provided in section 5 of this 2021 Act and sub-**
28 **section (2) of this section, each producer that sells, offers to sell or**
29 **distributes a covered product in this state must register with and be**
30 **a member of a producer responsibility organization that operates a**
31 **producer responsibility program approved by the Department of Envi-**

ronmental Quality under section 7 of this 2021 Act.

(2) A producer is not required to be a member of a producer responsibility organization if, for any covered product the producer sells, offers to sell or distributes in this state, another producer has registered with a producer responsibility organization as the producer responsible for that covered product in this state.

(3) A producer that is registered with a producer responsibility organization must:

(a) Pay the fee calculated under the schedule established by the producer responsibility organization pursuant to section 9 of this 2021 Act; and

(b) Upon request, provide the producer responsibility organization with records or other information necessary for the organization to meet its obligations under sections 2 to 36 of this 2021 Act.

(4) A producer responsibility program must support the recycling of covered products that are:

(a) Identified on the uniform statewide collection list established under section 19 of this 2021 Act; or

(b) Targeted for recycling as necessary to meet the statewide plastic packaging recovery goal established under section 20 of this 2021 Act.

(5) A producer responsibility organization shall make available on the organization's website:

(a) A searchable registry of the organization's members; and

(b) The identity of any members that are currently not in compliance with sections 2 to 36 of this 2021 Act.

(6)(a) If more than one producer responsibility organization is formed to satisfy the requirements of sections 2 to 36 of this 2021 Act, the producer responsibility organizations shall establish a producer responsibility organization coordinating body. If requested by the producer responsibility organizations, the department may serve as the coordinating body.

(b) The Environmental Quality Commission shall establish by rule elements that require coordination between producer responsibility organizations through a coordinating body.

(7) It is the responsibility of a producer responsibility organization to ensure that each member of its organization complies with subsection (3) of this section. The organization shall notify the department within 30 days of:

(a) The end of a six-month period in which the organization unsuccessfully attempted to obtain fees or records or information from a producer under subsection (3) of this section; or

(b) The date a producer member leaves the organization for any reason.

(8) A producer responsibility organization may not register a producer as a member of the organization if the producer sells, offers to sell or distributes covered products in this state that make deceptive or misleading claims about the recyclability of the product as described in section 28 of this 2021 Act.

SECTION 5. Exemptions. (1) A small producer is exempt from the requirement to be a member of a producer responsibility organization under section 4 of this 2021 Act.

(2) The Environmental Quality Commission may adopt rules to exempt producers that do not exceed a minimum market share of covered products in this state from the requirements of section 4 of this 2021 Act.

SECTION 6. Producer responsibility program plan. (1) A producer responsibility organization shall submit to the Department of Environmental Quality, in a form and manner prescribed by the department, a plan for the development and implementation of a producer responsibility program.

(2) Using objective and measurable criteria whenever possible, a producer responsibility program plan must:

1 (a) Describe how the producer responsibility organization will
2 manage and administer a producer responsibility program to meet the
3 organization's obligations under sections 2 to 36 of this 2021 Act, in-
4 cluding a description of how the organization will:

5 (A) Support the collection and recycling of covered products that
6 are included on the uniform statewide collection list established under
7 section 19 of this 2021 Act or as necessary to meet the statewide plastic
8 packaging recovery goal established under section 20 of this 2021 Act.

9 (B) Provide for the collection of covered products identified by the
10 Environmental Quality Commission under section 19 (1)(b) of this 2021
11 Act and meet convenience and performance standards for those cov-
12 ered products.

13 (C) Maximize the use of existing infrastructure.

14 (D) Ensure the safe and secure handling and disposition of covered
15 products and other materials collected with those covered products.

16 (E) Establish, calculate and charge base fees and provide incentives
17 as described in section 9 of this 2021 Act.

18 (F) Encourage producers to design products that are beneficial to
19 the environment through a graduated fee structure.

20 (G) Encourage continual improvements in environmental design
21 through fee incentives.

22 (H) Ensure that materials are managed and disposed of consistent
23 with the goals and practices required by sections 2 to 36 of this 2021
24 Act.

25 (I) Ensure that covered products collected for recycling will be
26 transferred to responsible end markets, including:

27 (i) The type and general locations of end markets that may use the
28 material collected from covered products in the manufacture of new
29 products;

30 (ii) How the organization will follow the hierarchy of materials
31 management options described in ORS 459.015 (2);

1 (iii) How the organization will ensure that environmentally protec-
2 tive management is maintained through to final disposition of the
3 covered product;

4 (iv) Arrangements the producer responsibility organization has
5 made with processors to ensure that materials are recycled at a re-
6 sponsible end market, including any investment intended to be made
7 to support processors; and

8 (v) For any material that will be marketed for use through a
9 method other than mechanical recycling, an analysis of the emissions
10 impacts for the proposed method compared to the emissions impacts
11 of mechanical recycling or the emissions impacts of disposal as solid
12 waste.

13 (J) Provide public outreach and education, including:

14 (i) A communications program for responding to questions; and

15 (ii) Outreach to local governments to ensure information is accu-
16 rate and consistent across the state.

17 (K) Take actions to address the findings of any report submitted
18 under section 22 of this 2021 Act since the organization's last plan or
19 plan amendment was approved and implement recommendations in-
20 cluded in the report.

21 (L) Implement improvements identified by any study conducted
22 under section 13 of this 2021 Act since the organization's last plan or
23 plan amendment was approved.

24 (b) Identify and provide contact information for the producer re-
25 sponsibility organization and each producer registered with the pro-
26 posed program.

27 (c) Describe the structure of the producer responsibility organiza-
28 tion, including the management structure and roles and functions of
29 committees.

30 (d) Describe how the producer responsibility organization will com-
31 municate and coordinate with the department, local governments, re-

1 **cycling collection service providers, processors and any other producer**
2 **responsibility organizations and the topics of communication or coor-**
3 **dination.**

4 **(e) Include projections on recovery rates for plastic packaging.**

5 **(f) Describe any efforts the producer responsibility organization will**
6 **make to support collection, processing or responsible recycling of**
7 **specifically identified materials, including:**

8 **(A) Any efforts to support or provide depot or mobile collection of**
9 **specifically identified materials;**

10 **(B) Any efforts to use education and promotion to encourage proper**
11 **participation in on-route collection of specifically identified materials;**

12 **(C) Any investments to support the successful processing of specif-**
13 **ically identified materials;**

14 **(D) Any efforts to develop or support responsible end markets for**
15 **specifically identified materials; and**

16 **(E) Any other efforts to ensure successful and responsible recycling**
17 **of specifically identified materials.**

18 **(g) Describe the fee structure of the producer responsibility organ-**
19 **ization, including a schedule of the fees actually charged to members.**

20 **(h) Demonstrate that the fees collected by the producer responsi-**
21 **bility organization will provide adequate revenue to fund all costs as-**
22 **sociated with the producer responsibility program, including but not**
23 **limited to costs for:**

24 **(A) The fees established under sections 23 and 24 of this 2021 Act;**

25 **(B) The collection, processing, transportation and disposal of ma-**
26 **terials;**

27 **(C) The development of educational resources under section 12 of**
28 **this 2021 Act;**

29 **(D) Litter prevention programs under section 14 of this 2021 Act;**
30 **and**

31 **(E) Reimbursements to local governments under section 11 of this**

2021 Act.

(i) Include a process for notifying the department and producers of potential noncompliance with the requirements of sections 2 to 36 of this 2021 Act by a producer or producer responsibility organization.

(j) Describe reserve funds or other contingency plans for responding to changes in markets or other circumstances that could affect the effectiveness of the program.

(k) Include a closure plan to settle the affairs of the producer responsibility organization that ensures that producers will continue to meet their obligations in the event of dissolution of the organization.

(L) Include any other information required by the department to determine that a producer responsibility organization is capable of meeting its obligations under sections 2 to 36 of this 2021 Act.

SECTION 7. Approval by department. (1)(a) The Department of Environmental Quality shall approve, approve with modifications or reject a plan submitted under section 6 this 2021 Act or an amendment to a plan submitted under section 8 of this 2021 Act no later than 120 days after the date on which the department receives the plan or plan amendment from the producer responsibility organization. If the department rejects the plan or plan amendment, the department shall provide in writing the reason for the rejection.

(b) If the department rejects a plan or plan amendment under paragraph (a) of this subsection, the producer responsibility organization must submit a revised plan or revised plan amendment to the department no later than 60 days from the date of the rejection. The department shall either approve, approve with modifications or reject the revised plan or revised plan amendment no later than 90 days after receiving a revised plan or revised plan amendment. If the department rejects the revised plan or revised plan amendment, the department shall provide in writing the reason for the rejection.

(c) If the department rejects a revised plan or revised plan amend-

ment submitted under paragraph (b) of this subsection, the department may:

(A) Require the producer responsibility organization to submit a new revised plan or revised plan amendment in the manner described in paragraph (b) of this subsection; or

(B) Impose a penalty under ORS 459.995 on the producer responsibility organization.

(2) Before approving, approving with modifications or rejecting a plan or plan amendment under this section, the department shall solicit feedback on the plan or plan amendment from the Oregon Recycling System Advisory Council established under section 15 of this 2021 Act. The department must make the plan or plan amendment available for public comment for a period of no less than 30 days before approving, approving with modifications or rejecting the plan or plan amendment.

(3) A plan approved by the department under this section is valid for four years. The department's rejection of a plan or plan amendment submitted for approval under this section does not relieve the producer responsibility organization from continuing to implement the producer responsibility program in compliance with the approved plan pending a final action by the department on the plan or plan amendment.

(4) No less than 180 days before a plan approved under this section expires, a producer responsibility organization shall submit a plan to be approved for an additional four years. A plan submitted for approval under this subsection must satisfy the requirements of section 6 of this 2021 Act and describe any substantive changes from the previously approved plan.

SECTION 8. Plan amendments. (1) A producer responsibility organization shall submit an amendment to a plan:

(a) When required to do so under section 20 of this 2021 Act;

(b) When required to do so under section 22 of this 2021 Act; or

(c) When required to do so by rules adopted by the Environmental Quality Commission.

(2) Not less than once per month, a producer responsibility organization shall provide written notice to the Department of Environmental Quality of any changes made during the previous month to a plan approved by the department under section 7 of this 2021 Act that are changes for which an amendment is not required under subsection (1) of this section. Changes subject to notice under this subsection shall be described by the commission by rule.

(3) The department shall review and approve any change for which notice is given under subsection (2) of this section if the department determines that the change has no material impact on the implementation and administration of a plan that has been previously approved by the department under section 7 of this 2021 Act.

SECTION 9. Fees charged by producer responsibility organization.

(1) A producer responsibility organization shall establish a schedule of fees to be paid by members of the organization. The fees established pursuant to this section must be sufficient to meet the financial obligations of the organization under sections 2 to 36 of this 2021 Act.

(2) A schedule established under this section must establish a base fee rate for all covered products sold or distributed in this state. The base fee paid by each producer member shall be calculated by multiplying the base fee rate by the total mass of covered products sold or distributed by the producer in this state.

(3) In addition to the base fee described in subsection (2) of this section, a producer responsibility organization shall charge additional base fees for covered products sold or distributed in this state that:

(a) Are recoverable but have higher costs associated with their recovery; or

(b) Are not recoverable.

(4) In addition to the base fees described in subsections (2) and (3) of this section, a producer responsibility organization's fee schedule must incentivize producers to continually reduce the environmental and human health impacts of covered products by offering fee adjustments to producers that make or have made changes to the ways in which they produce, use and market covered products. Fee adjustments developed under this subsection must include bonuses for covered products with a lower environmental impact and penalties for covered products with a higher environmental impact. In establishing the criteria for a fee adjustment, a producer responsibility organization must consider factors that include, but are not limited to:

(a) The post-consumer content of the material;

(b) The product-to-package ratio;

(c) The producer's choice of material; and

(d) Life cycle environmental impacts, as demonstrated by an evaluation performed in accordance with section 25 of this 2021 Act.

(5) Notwithstanding subsections (2) to (4) of this section, a producer responsibility organization may propose in a plan or plan amendment an alternative fee structure. The Department of Environmental Quality shall approve an alternative fee structure if the department determines that the structure:

(a) Satisfies the requirements of subsection (1) of this section; and

(b) Provides incentives to members to change the way the members produce, use and market materials in order to reduce environmental impacts.

(6)(a) Notwithstanding subsections (2) to (4) of this section, a producer responsibility organization may establish uniform fees for members that sell or distribute a disproportionately small share of covered products in this state, provided that doing so is not a significantly less effective means of reducing the environmental and social costs of producing and managing covered products.

1 (b) The Environmental Quality Commission may establish by rule
2 standards for establishing fees under this subsection.

3 **SECTION 10. Annual report.** (1) No later than July 1 of each year,
4 a producer responsibility organization must submit to the Department
5 of Environmental Quality an annual report on the development, im-
6 plementation and operation of the producer responsibility program.
7 The annual report must:

8 (a) Cover the prior calendar year;

9 (b) Present information in a manner that can be understood by the
10 general public; and

11 (c) Be otherwise prepared in the form and manner prescribed by the
12 department.

13 (2) The annual report must include:

14 (a) A list of the producers that participated in the producer re-
15 sponsibility program;

16 (b) A list of any producers found to be out of compliance with the
17 producer responsibility program plan and steps taken to bring those
18 producers into compliance;

19 (c) The total amount, by weight and type of material, of covered
20 products sold or distributed in this state by participating producers in
21 the prior calendar year;

22 (d) A description of the producer responsibility organization's ef-
23 forts to ensure that the collected covered products were responsibly
24 recycled and delivered to responsible end markets;

25 (e) A summary of payments requested by local governments and
26 paid by the producer responsibility organization under section 11 of
27 this 2021 Act;

28 (f) A summary of payments made to satisfy the producer responsi-
29 bility organization's obligations under sections 2 to 36 of this 2021 Act;

30 (g) A summary of the financial status of the producer responsibility
31 organization, including annual expenditures, revenues and assets;

1 (h) The fee schedule described in section 9 of this 2021 Act and, for
2 the reporting year, the fees collected pursuant to that schedule;

3 (i) A description of activities undertaken by the producer responsi-
4 bility organization that relate to the uniform statewide collection list
5 established under section 19 of this 2021 Act;

6 (j) A summary of efforts taken by the producer responsibility or-
7 ganization to meet the statewide plastic packaging recovery goal es-
8 tablished under section 20 of this 2021 Act and efforts planned to
9 maintain performance in meeting the goal or, if the goal has not been
10 met, efforts planned to meet the goal;

11 (k) The results, with an emphasis on equity issues, including but
12 not limited to those established under section 22 of this 2021 Act, of
13 any in-person site inspections, material tracking or other audits con-
14 ducted during the reporting year, including whether any major safety
15 or environmental management practices were not properly followed
16 and, if so, the corrective actions taken;

17 (L) Recommendations for any changes to the producer responsibil-
18 ity organization's plan to improve recovery and recycling;

19 (m) An evaluation of the adequacy of end markets;

20 (n) A summary of actions actually taken or planned by the organ-
21 ization to improve end markets, processing infrastructure or the
22 resiliency of the producer responsibility program;

23 (o) A summary of efforts taken to implement recommendations to
24 improve equity in the recycling system identified in a report under
25 section 22 of this 2021 Act;

26 (p) The number of producers that received a fee incentive described
27 in section 9 of this 2021 Act and the amount of covered products, by
28 material and format, for which producers received an incentive;

29 (q) An evaluation of the producer responsibility organization's
30 compliance with sections 2 to 36 of this 2021 Act and, if necessary,
31 actions that will be taken to achieve compliance;

(r) A report by an independent certified public accountant, retained by the producer responsibility organization at the organization's expense, on the accountant's audit of the organization's financial statements;

(s) The results of any non-financial audits or assessments measuring performance or outcomes; and

(t) Any other information required by the department.

(3)(a) A producer responsibility organization may include in a report submitted under this section a confidential addendum containing information on the market share of individual members. Information included in the confidential addendum is not subject to public disclosure under ORS 192.311 to 192.478, except that the department may disclose summarized information or aggregated data if the information or data do not directly or indirectly identify the confidential information.

(b) If a producer responsibility organization includes market share information in a confidential addendum, the report must summarize the information in a manner that can be understood by the general public.

(4) The department shall review reports submitted under this section and solicit feedback on each report from the Oregon Recycling System Advisory Council established under section 15 of this 2021 Act. The department shall make each report available for public comment for a period of no less than 30 days. The department shall submit the comments of the department, the council and the public to the producer responsibility organization.

(5) Within 60 days of receiving the comments under subsection (4) of this section, a producer responsibility organization shall submit a revised report to the department. If comments made by the department identify areas in which the producer responsibility organization is not in compliance with sections 2 to 36 of this 2021 Act, the revised

report must:

(a) Explain how the organization analyzed areas in which the organization was not in compliance with sections 2 to 36 of this 2021 Act;

(b) Identify the causes of the organization's failure to comply with sections 2 to 36 of this 2021 Act; and

(c) Explain how adjustments to the producer responsibility program will address areas of noncompliance.

(6) Each calendar quarter, a producer responsibility organization shall provide a materials disposition report to the department describing the final disposition of all materials for which the organization is responsible. The report required under this subsection must include:

(a) The final end market of the materials;

(b) The location of all facilities used to process the materials; and

(c) The final disposition of all materials, including materials that were not used by the end market.

SECTION 11. Reimbursements to local governments. (1) A producer responsibility organization shall, upon request, reimburse the reasonable expenses of a local government or the local government's agent for any of the following costs:

(a) The cost of transferring covered products from an aggregation point to a processing facility;

(b) Cost of anti-contamination educational programming for residential and commercial customers required by section 21 of this 2021 Act;

(c) The cost of providing recycling collection services for covered products at multifamily properties that currently lack such services;

(d) Costs associated with the expansion and provision of recycling collection services for covered products; and

(e) Costs associated with other recycling system improvements for covered products as determined by the Environmental Quality Com-

mission by rule.

(2) A local government or local government's agent requesting reimbursement under this section shall submit an accounting of its costs to a producer responsibility organization.

(3) A producer responsibility organization shall remit payment for expenses under this section to a local government, or the local government's agent.

(4) The Department of Environmental Quality may audit the cost accounting and reimbursement request records of a producer responsibility organization, a local government or the local government's agent that receives payment under this section.

(5)(a) The commission shall establish by rule reasonable expenses for purposes of this section.

(b) If a dispute arises between a local government or the local government's agent and a producer responsibility organization regarding the amount of reasonable expenses allowed under this section, either party may request from the Department of Environmental Quality, in the form and manner prescribed by the department, an order determining the amount of reasonable expenses. An order issued under this paragraph may be appealed by either party in accordance with the provisions of ORS 183.484 pertaining to review of an order in other than a contested case.

SECTION 12. Development of educational resources. (1) A producer responsibility organization shall, in consultation with local governments, develop educational resources to promote the uniform statewide collection list established under section 19 of this 2021 Act. Resources developed under this section must include, but need not be limited to:

(a) A description of materials identified for recycling by the producer responsibility program;

(b) Techniques to properly prepare materials for recycling;

1 (c) Education on the importance of not placing contaminants in
2 commingled recycling systems; and

3 (d) Container signs or decals.

4 (2) Educational resources developed under this section must be:

5 (a) Culturally responsive to diverse audiences across this state, in-
6 cluding people who speak languages other than English and people
7 with disabilities;

8 (b) Printed or produced in languages other than English; and

9 (c) Widely available.

10 (3) A producer responsibility organization shall make the educa-
11 tional resources developed under this section available to local gov-
12 ernments in a form that allows each local government to customize
13 the resources to reflect local conditions.

14 (4) When consulting with a producer responsibility organization
15 under subsection (1) of this section, a local government must take
16 responsibility to ensure that the educational resources meet the needs
17 of diverse audiences within the local government's community.

18 (5) A local government shall utilize and distribute educational re-
19 sources developed under this section. A local government may incor-
20 porate the educational resources developed under this section into an
21 existing education program developed to satisfy the requirements of
22 ORS 459A.007.

23 (6)(a) Except as provided in paragraph (b) of this subsection, edu-
24 cational resources developed under this section must be reviewed by
25 the Oregon Recycling System Advisory Council established under sec-
26 tion 15 of this 2021 Act and approved by the Department of Environ-
27 mental Quality before public distribution.

28 (b) Changes or alterations to educational resources previously ap-
29 proved by the department that do not materially affect the substance
30 of the information conveyed do not require review or approval under
31 this subsection.

SECTION 13. Other duties of producer responsibility organization.

(1)(a) A producer responsibility organization, in consultation with the Department of Environmental Quality and the Oregon Recycling System Advisory Council established under section 15 of this 2021 Act, shall study challenges facing residents of multifamily housing and make recommendations for improvements to allow for effective and equitable recycling opportunities for residents of multifamily housing. A study conducted under this paragraph must include an evaluation of the placement of and quality of space provided for recycling containers and recommendations for improving spaces that are determined to be inadequate.

(b) A producer responsibility organization shall provide the results of the study conducted under paragraph (a) of this subsection in a report to the department. The department shall review reports submitted under this paragraph and solicit feedback on each report from the council. The department must make each report available for public comment for a period of no less than 30 days before approving, approving with modifications or rejecting the report.

(c) A producer responsibility organization must update the study and recommendations required under paragraph (a) of this subsection no less than once every five years.

(d) No later than one year after the date on which the department approves a report submitted under paragraph (b) of this subsection, the producer responsibility organization must submit a plan amendment describing how the producer responsibility organization will make improvements to recycling opportunities for residents of multifamily housing to address the findings and recommendations of the report.

(2) A producer responsibility organization must provide for the collection and responsible recycling of covered products identified by the Environmental Quality Commission under section 19 (1)(b) of this 2021

Act by:

(a) Establishing and operating drop off centers for the covered product;

(b) Establishing and operating collection events for the covered product;

(c) Contracting with existing recycling depots or drop-off centers to provide for the collection of the covered product; or

(d) Making other arrangements for collection of the covered product as described in a producer responsibility program plan approved by the department under section 7 of this 2021 Act.

(3) A producer responsibility organization shall ensure that covered products collected in this state for the purpose of recovery will be:

(a) Delivered to responsible end markets;

(b) Managed according to the hierarchy of materials management options under ORS 459.015 (2); and

(c) Managed in an environmentally protective way through to final disposition.

(4) A producer responsibility organization may not take physical possession of covered products from a processor for transport to a responsible end market without the consent of the processor.

SECTION 14. Litter program. (1) A producer responsibility organization shall establish a program to prevent and control litter. A producer responsibility organization's litter prevention program shall carry out litter prevention and cleanup activities or provide grants to eligible entities to carryout litter prevention or control. Entities eligible for a grant include, but are not limited to:

(a) Public bodies as defined in ORS 174.109;

(b) Tribal governments; and

(c) Nonprofit organizations.

(2) A producer responsibility organization must consider the needs of economically distressed or underserved communities when provid-

ing grants to an eligible entity.

(Oregon Recycling System Advisory Council)

SECTION 15. Oregon Recycling System Advisory Council established. (1) The Oregon Recycling System Advisory Council is established.

(2)(a) The council consists of 13 members appointed by the Governor as follows:

(A) Four representatives of local governments;

(B) Two representatives of community-based organizations representing the interests of historically underserved groups;

(C) One owner or operator of a small business that is not in the recycling industry;

(D) Two representatives of environmental nonprofit organizations; and

(E) Four representatives of the recycling industry, including collectors, processors or material end users.

(b) The Governor may appoint a representative of a producer responsibility organization to serve as a member described in paragraph (a)(E) of this subsection.

(c) The Governor shall appoint members that reflect the geographic diversity of this state and the interests of both large and small communities.

(3)(a) The term of office of each member of the council is three years, but a member serves at the pleasure of the Governor.

(b) Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on July 1 following the appointment. A member is eligible for reappointment.

(c) If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

1 (4) A majority of the members of the council constitutes a quorum.

2 (5) The council shall elect one of its members to serve as chair-
3 person and another to serve as vice chairperson, for the terms and
4 with the duties and powers necessary for the performance of the
5 functions of such offices as the council determines. The chairperson
6 and vice chairperson may not both be members appointed under the
7 same subparagraph of subsection (2)(a)(A) to (E) of this section.

8 (6) The council shall meet at least once every three months at times
9 and places specified by the chairperson. The council also may meet at
10 other times and places specified by the call of the chairperson or of a
11 majority of the members of the council, as necessary, to carry out the
12 duties of the council.

13 (7) The Department of Environmental Quality shall provide admin-
14 istrative and staff support and facilities as necessary for the council
15 to carry out the duties of the council.

16 (8) A member of the council is entitled to compensation and ex-
17 penses in the manner and amounts provided for in ORS 292.495.
18 Claims for compensation and expenses incurred in performing func-
19 tions of the council shall be paid out of funds appropriated to the de-
20 partment for that purpose.

21 (9) The council may adopt rules necessary for the operation of the
22 council.

23 SECTION 16. Duties of council. (1) The Oregon Recycling System
24 Advisory Council established under section 15 of this 2021 Act shall:

25 (a) Review activities that affect Oregon's recycling system;

26 (b) Advise the Department of Environmental Quality and producer
27 responsibility organizations on issues affecting Oregon's recycling
28 system;

29 (c) Review producer responsibility program plans submitted under
30 section 6 of this 2021 Act, plan amendments submitted under section
31 8 of this 2021 Act and program reports submitted under section 10 of

1 **this 2021 Act; and**

2 **(d) Make written recommendations to the department and producer**
3 **responsibility organizations on matters that the council determines**
4 **are beneficial to the public interest, including:**

5 **(A) Matters related to producer responsibility program plans cre-**
6 **ated to satisfy the requirements of section 6 of this 2021 Act, program**
7 **plan audits and reports required by the plans, including:**

8 **(i) Producer fee structures described in section 9 of this 2021 Act;**

9 **(ii) Depot or mobile collection events for recyclable items; and**

10 **(iii) Other aspects of a producer responsibility program intended to**
11 **improve access to recycling, including access for residents of multi-**
12 **family housing.**

13 **(B) The uniform statewide collection list established under section**
14 **19 of this 2021 Act.**

15 **(C) The manner in which producer responsibility organization fees**
16 **will be distributed to local governments under section 11 of this 2021**
17 **Act, including:**

18 **(i) Review of statewide transportation, reload reimbursement and**
19 **other formulaic elements; and**

20 **(ii) Priorities for system funding where discretion is provided in**
21 **statute or in rules adopted by the Environmental Quality Commission.**

22 **(D) Statewide educational resources and campaigns.**

23 **(E) Compliance with the labeling requirements of section 28 of this**
24 **2021 Act.**

25 **(2) The council may only adopt recommendations upon a vote of a**
26 **majority of the members of the council.**

27 **(3) No later than September 15 of each even-numbered year, the**
28 **council shall submit to the appropriate interim committees of the**
29 **Legislative Assembly, in the manner provided by ORS 192.245, a report**
30 **that describes the recommendations of the council.**

(Responsibilities of Local Governments)

SECTION 17. Prohibition on delivery of commingled recyclables to certain facilities. A local government or the local government's agent may not deliver commingled recyclables collected to satisfy an obligation to provide the opportunity to recycle as required by ORS 459A.005 and 459A.007 to a commingled recycling processing facility unless:

(1) At the time the local government or the local government's agent delivered or contracted to deliver or transport materials to the facility:

(a) The processor held a valid permit issued under section 29 of this 2021 Act;

(b) The processor held a valid certificate issued under section 30 of this 2021 Act; or

(c) The processor certifies that it meets the requirements of section 29 or 30 of this 2021 Act, even though the processor does not hold a permit or certificate.

(2) The processor ensures the health, safety and wellness of workers in its facilities, regardless of whether the workers are employees, independent contractors or employees of another business.

(3) The processor provides workers with a living wage and supportive benefits.

(4) Within six months after the Department of Environmental Quality completes a report under section 22 of this 2021 Act, the processor has taken steps to implement any recommendations of the report related to providing opportunities in the recycling industry for women and minority individuals as defined in ORS 200.005 and the removal of barriers to company ownership for women and minority individuals.

SECTION 18. Other duties of local governments. A local govern-

ment providing the opportunity to recycle, as defined in ORS 459A.005, must:

(1) For the collection at multifamily properties of materials identified on the uniform statewide collection list established under section 19 of this 2021 Act:

(a) Ensure adequate space for collection; and

(b) Ensure that container placement is accessible to residents, including children and individuals who use a wheelchair.

(2) Ensure that roll carts, bins and containers that are manufactured from at least 10 percent post-consumer recyclable material and are certified by an independent verification standard, such as the Postconsumer Resin Certification Program established by the Association of Plastics Recyclers, are used to provide collection services.

(Responsibilities of the Environmental Quality Commission and the Department of Environmental Quality)

SECTION 19. Uniform statewide collection list and specifically identified materials. (1) The Environmental Quality Commission, in consultation with producer responsibility organizations and the Oregon Recycling System Advisory Council established under section 15 of this 2021 Act, shall by rule identify materials that are suitable for recycling collection in this state and the methods for collection of those materials. Rules adopted under this subsection must distinguish between:

(a) Materials collected to provide the opportunity to recycle as defined ORS 459A.005; and

(b) Covered products of which a producer must provide for the collection.

(2) When identifying materials and collection methods under subsection (1)(a) of this section, the commission may allow for the same

1 material to be collected via on-route collection or at recycling depots
2 in different geographic areas.

3 (3) In determining whether a material should be included in a
4 commingled recycling program, collected separately, collected on-
5 route, collected at a recycling depot or collected by a producer re-
6 sponsibility organization, the commission shall consider:

7 (a) The stability, maturity, accessibility and viability of responsible
8 end markets;

9 (b) Environmental health and safety considerations;

10 (c) The anticipated yield loss for the material during the recycling
11 process;

12 (d) The material's compatibility with existing recycling
13 infrastructure;

14 (e) The amount of the material available;

15 (f) The practicalities of sorting and storing the material;

16 (g) Contamination;

17 (h) The ability for waste generators to easily identify and properly
18 prepare the material;

19 (i) Economic factors;

20 (j) Environmental factors from a life cycle perspective; and

21 (k) The policy expressed in ORS 459.015.

22 (4) The Department of Environmental Quality shall establish a
23 uniform statewide collection list. The list established under this sub-
24 section must include:

25 (a) The materials identified by the commission under subsection
26 (1)(a) of this section and the collection methods for those materials;
27 and

28 (b) Covered products and the collection methods for those covered
29 products, if any, proposed for recycling collection by a producer re-
30 sponsibility organization in a producer responsibility program plan or
31 plan amendment and approved by the department under section 7 of

1 **this 2021 Act.**

2 **(5) Except as provided in subsection (6) of this section, a material**
 3 **may not be collected as part of a commingled recycling program unless**
 4 **the material is identified for collection as part of a commingled recy-**
 5 **cling program on the uniform statewide collection list established by**
 6 **the department under subsection (4) of this section.**

7 **(6) A material that is not identified for collection as part of a**
 8 **commingled recycling program on the uniform statewide collection list**
 9 **may be collected as part of a commingled recycling program if:**

10 **(a) The material is collected as part of a trial or research program;**

11 **(b) The trial or research program is of limited duration; and**

12 **(c) The trial or research program is conducted in a limited area.**

13 **(7) The commission shall establish by rule collection targets, con-**
 14 **venience standards and performance standards for producer responsi-**
 15 **bility organizations that collect covered products identified by the**
 16 **commission under subsection (1)(b) of this section.**

17 **(8) The department, in consultation with producer responsibility**
 18 **organizations and the council, shall establish and maintain a list of**
 19 **specifically identified materials.**

20 **(9) In determining whether a material, or a covered product, is a**
 21 **specifically identified material, the department shall consider criteria**
 22 **that include, but need not be limited to:**

23 **(a) Whether processing equipment improvements are needed to sort**
 24 **the material;**

25 **(b) The availability of viable end markets for the material;**

26 **(c) The market value of the material; and**

27 **(d) Whether the inclusion of the material or covered product in**
 28 **recycling collection programs would cause an increase in costs to**
 29 **ratepayers.**

30 **SECTION 20. Plastic packaging recovery rate. (1)(a) It is the goal**
 31 **of the State of Oregon that the recovery rate for plastic packaging be**

at least _____ percent for calendar year _____ and each subsequent year.

(b) The recovery rate determined under this subsection is separate from the recovery rates calculated under ORS 459A.010, and the recycling rate calculated under ORS 459A.657.

(2) The Department of Environmental Quality shall annually determine whether the statewide plastic packaging recovery goal established under subsection (1) of this section has been met in the previous calendar year. The department may require a producer responsibility organization to submit aggregated information necessary for the department to make the determination under this subsection.

(3) If the department determines that the statewide plastic packaging recovery goal for the previous calendar year has not been met, each producer responsibility organization shall, in the manner provided in section 8 of this 2021 Act, amend an existing producer responsibility program plan or submit a new producer responsibility program plan to address the failure to meet the statewide plastic packaging recovery goal.

SECTION 21. Contamination reduction. (1) The Department of Environmental Quality shall:

(a)(A) Establish statewide recycling contamination reduction goals; and

(B) In coordination with local governments, establish local recycling contamination reduction goals that are consistent with the statewide recycling contamination reduction goals.

(b) Evaluate the relative cost-effectiveness of different educational programs and other methods for reducing contamination.

(c) Establish and maintain a list of approved contamination reduction program elements, including:

(A) Customer-facing contamination reduction materials and methods; and

1 **(B) Standards for providing feedback to generators that contribute**
2 **to contamination.**

3 **(2) A local government described in ORS 459A.007 (3) or a person**
4 **that provides for the collection of source separated recyclables pursu-**
5 **ant to ORS 459.250 or 459A.005 shall establish a program to reduce**
6 **contamination that:**

7 **(a) Uses materials or methods approved by the department under**
8 **subsection (1)(c)(A) of this section; or**

9 **(b) Uses materials or methods that are at least as effective as ma-**
10 **terials or methods approved by the department under subsection**
11 **(1)(c)(A) of this section.**

12 **(3) The Environmental Quality Commission shall establish by rule**
13 **enforcement standards for a contamination reduction program devel-**
14 **oped under subsection (2) of this section. Rules adopted under this**
15 **subsection must:**

16 **(a) Limit enforcement to generators that are significant and re-**
17 **peated sources of contamination;**

18 **(b) Require a local government or disposal site operator to provide**
19 **feedback to generators consistent with the standards described in**
20 **subsection (1)(c)(B) of this section before taking an enforcement**
21 **action against a generator; and**

22 **(c) Require that any enforcement action against a generator take**
23 **into account the individual circumstances of the generator, including**
24 **language barriers and income.**

25 **(4) If a contamination reduction program established under sub-**
26 **section (2) of this section does not result in a reduction of contam-**
27 **ination that equals or exceeds the local recycling contamination**
28 **reduction goals established under subsection (1)(a)(B) of this section,**
29 **the local government or disposal site operator shall introduce addi-**
30 **tional contamination reduction program elements until the program**
31 **meets the local recycling contamination reduction goals.**

SECTION 22. Equity study. (1) The Department of Environmental Quality, in consultation with local governments, the Oregon Recycling System Advisory Council established under section 15 of this 2021 Act, and other persons interested in Oregon's recycling system, shall conduct a study of social equity in Oregon's recycling system and make recommendations for improvement. The study must include, but need not be limited to:

(a) An evaluation of commingled recycling processing facility worker conditions, wages and benefits;

(b) The availability of opportunities in the recycling industry for women and minority individuals as defined in ORS 200.005 and the barriers to company ownership in the recycling industry for women and minority individuals;

(c) The sufficiency of local government requirements related to multifamily recycling services and their implementation; and

(d) The sufficiency of recycling education programs relative to desired equity outcomes.

(2) A business operating within the recycling system in this state shall, upon request, furnish the department with information necessary for the department to meet the requirements of subsection (1)(a) and (b) of this section.

(3) The department shall report the results of the study and recommendations required under this section to the Environmental Quality Commission. The commission shall approve or reject the recommendations of the department and provide a copy of the report and approved recommendations to each producer responsibility organization.

(4) The department shall revise the study and recommendations and report once every five years.

(5) No later than one year after receiving a report and recommendations from the commission under subsection (3) of this section, a

producer responsibility organization shall submit a plan amendment describing how it will make improvements to the producer responsibility program plan to address the approved recommendations of the report.

SECTION 23. Fees. (1) The Department of Environmental Quality shall establish the following fees for the purpose of paying the costs of administering, implementing and enforcing the provisions of sections 2 to 36 of this 2021 Act related to producer responsibility organizations:

(a) A fixed, one-time fee for reviewing a producer responsibility program plan submitted under section 6 of this 2021 Act.

(b) A fixed, one-time fee for reviewing a producer responsibility program plan amendment under submitted under section 8 of this 2021 Act.

(c) An annual fee charged to each producer responsibility organization for the department's administrative expenses related to producer responsibility organizations under sections 2 to 36 of this 2021 Act.

(d) A fixed, hourly fee for any other work that the department must do on behalf of a producer responsibility organization.

(2) The fee calculated for each producer responsibility organization under subsection (1)(c) of this section must be proportionate to the market share of all products that the producer responsibility organization's members sell or distribute in Oregon. The department may make a reasonable estimate of the market share of a producer or producer responsibility organization for any year for which market share information for that producer or producer responsibility organization has not been provided to the department.

(3) The department shall provide notice to a producer responsibility organization no later than September 1 of each year of the annual fee required under subsection (1)(c) of this section for the upcoming cal-

endar year. Fees collected by the department under this section shall be deposited in the State Treasury to the credit of the Producer Responsibility Fund established under section 26 of this 2021 Act.

SECTION 24. Waste prevention and reuse. (1) The Department of Environmental Quality shall establish a program to support waste prevention and the reuse of covered products that might otherwise become solid waste. The department may enter into intergovernmental agreements with local governments to establish a waste prevention and reuse program on behalf of the local government. The department may provide grants or loans to entities that establish a waste prevention and reuse program. Entities eligible for a grant or loan include, but are not limited to:

- (a) Public bodies as defined in ORS 174.109;
- (b) Tribal governments;
- (c) Nonprofit organizations; and
- (d) Private organizations, if the department determines that the funds would be used for the public benefit.

(2) In providing grants or loans for a waste prevention and reuse program under this section, the department must consider criteria that include, but are not limited to:

- (a) The environmental benefits of the program;
- (b) The human health benefits of the program;
- (c) The social and economic benefits of the program;
- (d) The cost-effectiveness of the program; and
- (e) The needs of economically distressed or underserved communities.

(3) In addition to the fees established under section 23 of this 2021 Act, the department shall establish a waste prevention and reuse fee to be paid by producer responsibility organizations. The fee established under this subsection must be reasonably calculated to support the waste prevention and reuse programs established under this sec-

tion. Fees collected under this subsection must be deposited in the Waste Prevention and Reuse Fund established under section 27 of this 2021 Act.

SECTION 25. Life cycle evaluation. The Environmental Quality Commission shall establish by rule standards for the evaluation and disclosure of the environmental impacts of covered products through the life cycle of the products. Rules adopted under this section must:

(1) Establish procedures and requirements to be used by producers when evaluating the life cycle impacts of covered products to obtain an incentive under section 9 of this 2021 Act or when required to do so under subsection (2) of this section.

(2) Require large producers to:

(a) Perform an evaluation of the life-cycle impacts of covered products sold or distributed in this state;

(b) Provide the results of the evaluation to the Department of Environmental Quality;and

(c) Make the evaluation available on the website of the producer responsibility organization of which the large producer is a member.

SECTION 26. Producer Responsibility Fund. The Producer Responsibility Fund is established, separate and distinct from the General Fund. All moneys in the Producer Responsibility Fund are continuously appropriated to the Department of Environmental Quality and may be used only to pay the costs of administering, implementing and enforcing sections 2 to 36 of this 2021 Act.

SECTION 27. Waste Prevention and Reuse Fund. The Waste Prevention and Reuse Fund is established, separate and distinct from the General Fund. All moneys in the Waste Prevention and Reuse Fund are continuously appropriated to the Department of Environmental Quality and may be used only for the purposes described in section 24 of this 2021 Act.

SECTION 28. Product labeling. (1) As used in this section:

1 (a) “Chasing arrows symbol” means:

2 (A) An equilateral triangle formed by three arrows, curved at their
3 midpoints, depicting a clockwise path, with a short gap separating the
4 apex of each arrow from the base of the adjacent arrow; or

5 (B) A substantially similar symbol.

6 (b) “Resin identification code” means a number that corresponds
7 with a type of plastic resin used to make a plastic product or its
8 packaging.

9 (2)(a) A person may not distribute, sell or offer to sell, including
10 by means of remote sale, any product that makes a deceptive or mis-
11 leading claim about the recyclability of the product or the product’s
12 packaging in this state.

13 (b) A product that displays a chasing arrows symbol, a chasing ar-
14 rows symbol surrounding a resin identification code or any other
15 symbol or statement indicating the product is recyclable is deemed to
16 be deceptive or misleading unless:

17 (A) The material of the product or its packaging is identified on the
18 uniform statewide collection list established under section 19 of this
19 2021 Act as a material that is suitable for on-route collection; or

20 (B) The product is labeled in accordance with rules adopted by the
21 Environmental Quality Commission under subsection (3) of this sec-
22 tion.

23 (3) The commission shall establish by rule labeling standards for
24 products that make claims about the recyclability of the product or
25 the product’s packaging. Labeling standards established under this
26 subsection may require a statement identifying the correct recycling
27 method for the material.

28 (4) A person may not distribute, sell or offer to sell, including by
29 means of remote sale, any product labeled with a word or symbol in-
30 tended to convey that the product is compostable unless the product
31 is compostable in this state and the label complies with rules adopted

1 by the commission.

2 (5) Rules, or amendments to rules other than minor corrections,
3 adopted by the commission under subsection (3) of this section may
4 not become effective until two years after the date on which the rule
5 or amendment is adopted.

6
7 (Commingled Recycling Processing Facilities)
8

9 SECTION 29. Permit required. (1) A person may not establish or
10 operate a commingled recycling processing facility unless the person
11 obtains a disposal site permit issued by the Department of Environ-
12 mental Quality under ORS 459.205.

13 (2) A disposal site permit issued to a commingled recycling pro-
14 cessing facility must require the facility to:

15 (a) Sort all materials collected from the public so that materials
16 do not become contaminants in other waste streams;

17 (b) Market materials to responsible end markets;

18 (c) Manage contaminants to avoid impacts to other waste streams
19 or facilities;

20 (d) Refrain from creating a public nuisance or health hazard or
21 creating air or water pollution or other adverse impact to public
22 health or the environment; and

23 (e) Accurately report outbound contamination levels and the final
24 disposition of materials held by the processor.

25 (3) The Environmental Quality Commission shall prescribe by rule
26 the requirements for a permit issued under this section.

27 SECTION 30. Certification program. (1) The Department of Envi-
28 ronmental Quality shall establish a program or approve a program
29 established by a third party to certify commingled recycling processing
30 facilities. The department may issue certificates under the program
31 or develop a list of approved contractors to issue certificates.

SECTION 31. Contamination. (1) The Department of Environmental Quality shall establish forms and procedures for commingled recycling processors and reload facilities to evaluate and describe levels of in-bound contamination.

9

11

(2) A producer responsibility organization shall retain all records related to the implementation and administration of a producer responsibility program for not less than three years and make the records available for inspection by the department upon request.

25 **(4) The department may issue an order under subsection (3) of this**
26 **section to suspend or revoke a producer responsibility program plan**
27 **approved under section 7 of this 2021 Act if the department determines**
28 **that:**

31 **(b) A violation has had a material impact on the implementation**

1 and administration of the organization's producer responsibility pro-
2 gram plan.

3 (5) The department may bring an action seeking to prohibit the sale
4 of a covered product in this state against any producer that sells, of-
5 fers to sell or distributes a covered product in this state:

6 (a) In violation of section 4 of this 2021 Act; or

7 (b) In violation of section 28 of this 2021 Act or rules adopted by the
8 Environmental Quality Commission pertaining to claims about the
9 recyclability of a product or its packaging.

10 (6)(a) If the department finds that a producer responsibility organ-
11 ization has violated a provision of sections 2 to 36 of this 2021 Act and
12 the violation has had a material impact on the implementation and
13 administration of the organization's producer responsibility program
14 plan approved by the department under section 7 of this 2021 Act, the
15 department may revoke approval of the plan or plan amendment or
16 require the organization to resubmit a plan or plan amendment.

17 (b) Before taking action under paragraph (a) of this subsection, the
18 department must provide to the producer responsibility organization
19 the department's written findings and provide the organization with
20 an opportunity to respond.

21 (7) Any person with control of materials collected under sections 2
22 to 36 of this 2021 Act shall retain all records related to the person's
23 responsibilities under sections 2 to 36 of this 2021 Act for not less than
24 three years and make the records available for inspection by the de-
25 partment upon request.

26 (8) A person required to retain records under subsection (7) of this
27 section shall make the records available upon request to a producer
28 responsibility organization, if necessary to allow the organization to
29 meet its obligations under sections 2 to 36 of this 2021 Act.

30
31 (Miscellaneous)

SECTION 33. Policy on composting. (1) It is the policy of the State of Oregon that the decision to accept any covered printed paper and packaging at a compost facility is the decision of the individual compost facility.

(2) The Environmental Quality Commission may adopt rules requiring producers to conform to standards for the compostability of products distributed, sold or offered for sale in this state.

SECTION 34. State procurement assessment. (1) The Oregon Department of Administrative Services, in consultation with the Department of Environmental Quality, shall study and assess state procurement practices as they relate to recycled product, recycled PETE and recycled materials as those terms are defined in ORS 279A.010. The assessment must include:

(a) An evaluation of procurement practices under ORS chapters 279A and 279B related to recycled materials, including efficacy and compliance;

(b) A quantitative evaluation of the impact and effectiveness of the five percent price limitation described in ORS 279A.125 (2)(d);

(c) A feasibility study of additional opportunities to increase the purchase of products containing post-consumer recycled content, including but not limited to products containing post-consumer recycled PETE and other plastics;

(d) An evaluation of opportunities for strengthening traceability and verification requirements associated with recycled products or recycled materials, especially recycled plastic; and

(e) Recommendations for legislation.

(2) The Oregon Department of Administrative Services shall provide the results of the assessment in a report to the appropriate interim committees of the Legislative Assembly in the manner provided under ORS 192.245. The department shall revise the initial assessment completed under this section every five years.

SECTION 35. Antitrust. The Legislative Assembly declares that the collaboration of producers through producer responsibility organizations to develop and implement producer responsibility program plans is in the best interests of the public. Therefore, the Legislative Assembly declares its intent that participating in a producer responsibility organization to implement a producer responsibility program plan as required by sections 2 to 36 of this 2021 Act shall be exempt from state antitrust laws. The Legislative Assembly further declares its intent to provide immunity for participating in a producer responsibility organization to implement a producer responsibility program plan as required by sections 2 to 36 of this 2021 Act from federal antitrust laws. This section does not authorize any person to engage in activities or to conspire to engage in activities that constitute per se violations of state or federal antitrust laws that are not authorized under sections 2 to 36 of this 2021 Act.

SECTION 36. Rules. The Environmental Quality Commission may adopt rules as necessary to implement sections 2 to 36 of this 2021 Act.

AMENDMENTS TO STATUTES

SECTION 37. ORS 459.005 is amended to read:

459.005. As used in ORS 459.005 to 459.437, 459.705 to 459.790 and 459A.005 to 459A.665:

(1) “Affected person” means a person or entity involved in the solid waste collection service process including but not limited to a recycling collection service, disposal site permittee or owner, city, county and metropolitan service district.

(2) “Board of county commissioners” or “board” includes a county court.

(3) “Collection service” means a service that provides for collection of solid waste or recyclable material or both but does not include that part of a business operated under a certificate issued under ORS 822.110.

(4) “Commercial” means stores, offices including manufacturing and industry offices, restaurants, warehouses, schools, colleges, universities, hospitals and other nonmanufacturing entities, but does not include other manufacturing activities or business, manufacturing or processing activities in residential dwellings.

(5) “Commission” means the Environmental Quality Commission.

(6) “Compost” means the controlled biological decomposition of organic material or the product resulting from such a process.

(7) “Department” means the Department of Environmental Quality.

(8)(a) “Disposal site” means land and facilities used for the disposal, handling or transfer of, or energy recovery, material recovery and recycling from solid wastes, including but not limited to dumps, landfills, sludge lagoons, sludge treatment facilities, disposal sites for septic tank pumping or cesspool cleaning service, transfer stations, energy recovery facilities, incinerators for solid waste delivered by the public or by a collection service, composting plants and land and facilities previously used for solid waste disposal at a land disposal site.

(b) “Disposal site” does not include:

(A) A facility authorized by a permit issued under ORS 466.005 to 466.385 to store, treat or dispose of both hazardous waste and solid waste;

(B) A facility subject to the permit requirements of ORS 468B.050 or 468B.053;

(C) A site used by the owner or person in control of the premises to dispose of soil, rock, concrete or other similar nondecomposable material, unless the site is used by the public either directly or through a collection service; or

(D) A site operated by a dismantler issued a certificate under ORS 822.110.

(9) “Energy recovery” means recovery in which all or a part of the solid waste materials are processed to use the heat content, or other forms of energy, of or from the material.

1 (10) “Franchise” includes a franchise, certificate, contract or license is-
2 sued by a local government unit authorizing a person to provide solid waste
3 management services.

4 (11) “Hazardous waste” has the meaning given that term in ORS 466.005.

5 (12) “Household hazardous waste” means any discarded, useless or un-
6 wanted chemical, material, substance or product that is or may be hazardous
7 or toxic to the public or the environment and is commonly used in or around
8 households and is generated by the household. “Household hazardous
9 waste” may include but is not limited to some cleaners, solvents, pesticides
10 and automotive and paint products.

11 (13) “Land disposal site” means a disposal site in which the method of
12 disposing of solid waste is by landfill, dump, pit, pond or lagoon.

13 (14) “Landfill” means a facility for the disposal of solid waste involving
14 the placement of solid waste on or beneath the land surface.

15 (15) “Local government unit” means a city, county, metropolitan service
16 district formed under ORS chapter 268, sanitary district or sanitary authority
17 formed under ORS chapter 450, county service district formed under ORS
18 chapter 451, regional air quality control authority formed under ORS
19 468A.100 to 468A.130 and 468A.140 to 468A.175 or any other local government
20 unit responsible for solid waste management.

21 (16) “Material recovery” means any process of obtaining from solid waste,
22 by presegregation or otherwise, materials that still have useful physical or
23 chemical properties and can be reused or recycled for some purpose.

24 **(17) “Materials management” means an approach that seeks to re-**
25 **duce environmental impacts by managing materials throughout all**
26 **stages of their life cycle, including but not limited to solid waste**
27 **management.**

28 [(17)] (18) “Metropolitan service district” means a district organized un-
29 der ORS chapter 268 and exercising solid waste authority granted to such
30 district under this chapter and ORS chapters 268 and 459A.

31 [(18)] (19) “Person” means the United States, the state or a public or

private corporation, local government unit, public agency, individual, partnership, association, firm, trust, estate or any other legal entity.

[(19)] (20) “Recyclable material” means any material or group of materials that can be collected and sold for recycling at a net cost equal to or less than the cost of collection and disposal of the same material.

[(20)] (21) “Recycling” means any process by which solid waste materials are transformed into new products in a manner that the original products may lose their identity.

[(21)] (22) “Region” means the states of Idaho, Oregon and Washington and those counties in California and Nevada that share a common border with Oregon.

[(22)] (23) “Regional disposal site” means a disposal site that receives, or a proposed disposal site that is designed to receive more than 75,000 tons of solid waste a year from outside the immediate service area in which the disposal site is located. As used in this subsection, “immediate service area” means the county boundary of all counties except a county that is within the boundary of the metropolitan service district. For a county within the metropolitan service district, “immediate service area” means the metropolitan service district boundary.

[(23)] (24) “Reuse” means the return of a commodity into the economic stream for use in the same kind of application as before without change in its identity.

[(24)] (25) “Solid waste” means all useless or discarded putrescible and nonputrescible materials, including but not limited to garbage, rubbish, refuse, ashes, paper and cardboard, sewage sludge, septic tank and cesspool pumpings or other sludge, useless or discarded commercial, industrial, demolition and construction materials, discarded or abandoned vehicles or parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid materials, dead animals and infectious waste as defined in ORS 459.386. “Solid waste” does not include:

(a) Hazardous waste as defined in ORS 466.005.

(b) Materials used for fertilizer or for other productive purposes or which are salvageable as such materials are used on land in agricultural operations and the growing or harvesting of crops and the raising of animals.

(c) Woody biomass that is combusted as a fuel by a facility that has obtained a permit described in ORS 468A.040.

[(25)] **(26)** “Solid waste management” means prevention or reduction of solid waste, management of the storage, collection, transportation, treatment, utilization, processing and final disposal of solid waste, recycling, reuse and material or energy recovery from solid waste and facilities necessary or convenient to such activities.

[(26)] **(27)** “Source separate” means that the person who last uses recyclable material separates the recyclable material from solid waste.

[(27)] **(28)** “Transfer station” means a fixed or mobile facility other than a collection vehicle where solid waste is deposited temporarily after being removed from the site of generation but before being transported to a final disposal location.

[(28)] **(29)** “Waste prevention” means to reduce the amount of solid waste generated or resources used, without increasing toxicity, in the design, manufacture, purchase or use of products or packaging. “Waste prevention” does not include reuse, recycling or composting.

[(29)] **(30)** “Wasteshed” means an area of the state having a common solid waste disposal system or designated by the commission as an appropriate area of the state within which to develop a common recycling program.

[(30)] **(31)** “Woody biomass” means material from trees and woody plants, including limbs, tops, needles, leaves and other woody parts, grown in a forest, woodland, farm, rangeland or wildland-urban interface environment that is the by-product of forest management, ecosystem restoration or hazardous fuel reduction treatment.

[(31)] **(32)** “Yard debris” includes grass clippings, leaves, hedge trimmings and similar vegetative waste generated from residential property or landscaping activities, but does not include stumps or similar bulky wood mate-

1 rials.

2 **SECTION 38.** ORS 459.015 is amended to read:

3 459.015. (1) The Legislative Assembly finds and declares that:

4 (a) The planning, development and operation of recycling programs is a
5 matter of statewide concern.

6 (b) The opportunity to recycle should be provided to every person in
7 Oregon.

8 (c) There is a shortage of appropriate sites for landfills in Oregon.

9 (d) It is in the best interests of the people of Oregon to extend the useful
10 life of solid waste disposal sites by encouraging waste prevention and the
11 recycling and reuse of materials, and by requiring solid waste to undergo
12 volume reduction through recycling and reuse measures to the maximum
13 extent feasible before disposal. Implementation of waste prevention and re-
14 cycling and reuse measures will not only increase the useful life of solid
15 waste disposal sites, but also decrease the potential public health and safety
16 impacts associated with the operation of disposal sites.

17 (e) There are limits to Oregon's natural resources and the capacity of the
18 state's environment to absorb the impacts of increasing consumption of re-
19 sources, increasing waste generation and increasing solid waste disposal.

20 (f) It is in the best interests of the people of Oregon to conserve resources
21 and energy by developing an economy that encourages waste prevention and
22 recycling.

23 (g) The State of Oregon should make it a priority to support efforts that
24 assist each watershed in meeting its recovery goal so the statewide recovery
25 goal may be achieved.

26 **(h) The purpose of waste prevention, reuse, recycling, composting**
27 **and waste recovery in Oregon is to conserve resources, reduce pol-**
28 **lution and optimize environmental benefits, while taking into consid-**
29 **eration the impacts of materials and products across the full life cycle,**
30 **from raw material extraction to end-of-use management.**

31 (i) It is necessary, in order to protect the health and promote the

1 well-being of all residents in Oregon, to acknowledge and align
 2 Oregon's sustainable materials management policy with principles of
 3 environmental and social justice across the life cycle of materials
 4 consumed in this state.

5 (j) Producers of materials sold or distributed in Oregon, regardless
 6 of their location, are responsible for creating and implementing ap-
 7 propriate actions that ensure their products and packaging designs
 8 consistently reduce negative environmental, health and social burdens
 9 across the life cycle of their products and packaging. Such actions
 10 include incorporating sustainably extracted raw materials, imple-
 11 menting sustainable manufacturing best practices that are more
 12 resource-efficient and less environmentally harmful and toxic, mini-
 13 mizing the generation of waste and release of pollution and sharing in
 14 the responsibility for appropriate management of discarded materials
 15 at the end of their useful life.

16 (2) In the interest of the public health, safety and welfare, [*and in order*
 17 *to conserve energy and natural resources,*] in order to allow all entities in
 18 Oregon to produce and use materials responsibly, conserve resources
 19 and protect the environment, and in order to allow all people of
 20 Oregon to live well, it is the policy of the State of Oregon to establish a
 21 comprehensive statewide program for [*solid waste*] **materials** management
 22 [*which*] **that** will:

23 (a) [*After consideration of technical and economic feasibility, establish*
 24 *priority in methods of managing solid waste in Oregon as follows:*] **Minimize**
 25 **the net negative impacts of materials, across their life cycle, on hu-**
 26 **man well-being and environmental health, including the quality of**
 27 **land, air, water and ecosystems, with consideration of technical and**
 28 **economic feasibility.**

29 (b) Consistent with paragraph (a) of this subsection, reduce the
 30 amount of materials used.

31 (c) If information on the net negative impacts described in para-

graph (a) of this subsection is unavailable or highly uncertain, establish priority in methods of managing solid waste in Oregon as follows:

(A) First, to reduce the amount of solid waste generated[;].

(B) Second, to reuse material for the purpose for which it was originally intended[;].

(C) Third, to recycle material that cannot be reused[;], **with preference given to recycling pathways, methods and end markets that result in the greatest reduction of net negative impacts on human well-being and environmental health. When these impacts are not known, preference is given to:**

(i) **Recycling methods and end markets that displace the production of more impactful materials over recycling methods and end markets that displace the production of less impactful materials.**

(ii) **Processes that best preserve the value and molecular structure of the material being recycled.**

(D) Fourth, to compost material that cannot be reused or recycled[;], **provided that composting or digestion results in net reductions in impacts on human well-being and environmental health relative to the methods described in subparagraphs (E) and (F) of this paragraph.**

(E) Fifth, to recover energy from solid waste that cannot be reused, recycled or composted [*so long as the energy recovery facility preserves the quality of air, water and land resources; and*], **provided that the emissions and impacts of energy recovery are understood and result in net reductions in impacts on human well-being and environmental health relative to the methods described in subparagraph (F) of this paragraph.**

(F) Sixth, to dispose of solid waste [*that cannot be reused, recycled, composted or from which energy cannot be recovered*] by landfilling or other method approved by the Department of Environmental Quality.

[(b)] **(d)** Clearly express the Legislative Assembly's previous delegation of authority to cities and counties for collection service franchising and

1 regulation and the extension of that authority under the provisions of this
2 section and ORS 459.125 and 459A.005 to 459A.085.

3 [(c)] **(e)** Retain primary responsibility for management of adequate solid
4 waste management programs with cities, counties or metropolitan service
5 districts, reserving to the state those functions necessary to ensure effective
6 programs, cooperation among cities, counties or metropolitan service dis-
7 tricts and coordination of solid waste management programs throughout the
8 state.

9 [(d)] **(f)** Promote, encourage and develop markets first for reusable mate-
10 rial and then for recyclable material.

11 [(e)] **(g)** Promote research, surveys and demonstration projects to encour-
12 age material or energy recovery.

13 [(f)] **(h)** Promote research, surveys and demonstration projects to aid in
14 developing more sanitary, efficient and economical methods of solid waste
15 management.

16 [(g)] **(i)** Provide advisory technical assistance and planning assistance to
17 affected persons, in the planning, development and implementation of solid
18 waste management programs.

19 [(h)] **(j)** Develop, in coordination with federal, state and local agencies
20 and other affected persons, long-range plans including regional approaches
21 to promote reuse, to provide land reclamation in sparsely populated areas,
22 and in urban areas necessary disposal facilities.

23 [(i)] **(k)** Provide for the adoption and enforcement of recycling rates and
24 standards as well as performance standards necessary for safe, economic and
25 proper solid waste management.

26 [(j)] **(L)** Provide authority for counties to establish a coordinated program
27 for solid waste management, to regulate solid waste management and to li-
28 cense or franchise the providing of service in the field of solid waste man-
29 agement.

30 [(k)] **(m)** Encourage utilization of the capabilities and expertise of private
31 industry.

1 [(L)] **(n)** Promote means of preventing or reducing at the source, materi-
2 als *[which]* **that** otherwise would constitute solid waste.

3 [(m)] **(o)** Promote application of material or energy recovery systems
4 *[which]* **that** preserve and enhance the quality of air, water and land re-
5 sources.

6 **(p) Provide for recycling collection and processing systems that**
7 **have adequate capacity and are operated for the purpose of achieving**
8 **the policy set forth in this section and providing clean, usable mate-**
9 **rials to industry.**

10 **(q) Ensure that all materials collected for waste disposal or recov-**
11 **ery shall be managed responsibly through to their final disposition,**
12 **minimizing impacts that create pollution or harm the quality of air,**
13 **land, water and ecosystems, or harm human health and welfare.**

14 **SECTION 39.** ORS 459.995 is amended to read:

15 459.995. (1) Except as provided in subsection (2) of this section, in addition
16 to any other penalty provided by law:

17 (a) Any person who violates ORS 459.205, 459.270, 459.272, 459.386 to
18 459.405, 459.705 to 459.790, 459A.005 to 459A.620, 459A.310 to 459A.335[,
19 459A.675 to 459A.685] or 646A.080 **or sections 2 to 36 of this 2021 Act**, or
20 any rule or order of the Environmental Quality Commission pertaining to the
21 disposal, collection, storage or reuse or recycling of solid wastes, as defined
22 by ORS 459.005, or any rule or order pertaining to the disposal, storage or
23 transportation of waste tires, as defined by ORS 459.705, or any rule or order
24 pertaining to the sale of novelty items that contain encapsulated liquid
25 mercury, incurs a civil penalty not to exceed \$25,000 per day for each day
26 of the violation.

27 (b) Any person who violates the provisions of ORS 459.420 to 459.426 in-
28 curs a civil penalty not to exceed \$500 for each violation. Each battery that
29 is disposed of improperly is a separate violation. Each day an establishment
30 fails to post the notice required under ORS 459.426 is a separate violation.

31 (c) For each day a city, county or metropolitan service district fails to

1 provide the opportunity to recycle as required under ORS 459A.005, the city,
2 county or metropolitan service district incurs a civil penalty not to exceed
3 \$500 for each violation.

4 (d) Any person who violates the provisions of ORS 459.247 (1)(f) incurs a
5 civil penalty not to exceed \$500 for each violation. Each covered electronic
6 device that is disposed of improperly is a separate violation.

7 (e) Any retailer that violates the provisions of ORS 459A.825 (1) or (2)(b)
8 incurs a civil penalty not to exceed \$100 per day for each day of the vio-
9 lation.

10 (f) Any producer that violates the provisions of ORS 459A.825 (1) incurs
11 a civil penalty not to exceed \$1,000 per day for each day of the violation.

12 (g) Any stewardship organization that violates the provisions of ORS
13 459A.825 (2)(a), 459A.827, 459A.830 to 459A.837 or 459A.842 incurs a civil
14 penalty not to exceed \$1,000 per day for each day of the violation.

15 (2) Any product manufacturer or package manufacturer who violates ORS
16 459A.650 to 459A.665 or any rule adopted under ORS 459A.650 to 459A.665
17 incurs a civil penalty not to exceed \$1,000 per day for each day of the vio-
18 lation. A violation of ORS 459A.650 to 459A.665 is not subject to additional
19 penalties under subsection (1) of this section.

20 (3) Any civil penalty authorized by subsection (1) or (2) of this section
21 shall be imposed in the manner provided by ORS 468.135.

22 **SECTION 40.** ORS 459A.005 is amended to read:

23 459A.005. (1) As used in ORS 459.015, 459.250 and 459A.005 to 459A.665,
24 the “opportunity to recycle” means at least that the city, county or metro-
25 politan service district responsible for solid waste management:

26 (a)(A) Provides a place for collecting source separated recyclable
27 material, **including the materials on the uniform statewide collection**
28 **list established under section 19 of this 2021 Act designated for col-**
29 **lection at a recycling depot**, located either at a disposal site or at another
30 location more convenient to the population being served and, if a city has
31 a population of 4,000 or more, collection at least once a month of source

separated recyclable material, **including the materials on the uniform statewide collection list established under section 19 of this 2021 Act designated for on-route collection, in a manner that is at least as convenient as garbage collection service**, from collection service customers within the city's urban growth boundary or, where applicable, within the urban growth boundary established by a metropolitan service district; or

(B) Provides an alternative method that complies with rules of the Environmental Quality Commission; and

(b) Complies with the program element requirements described in ORS 459A.007.

(2) The "opportunity to recycle" defined in subsection (1) of this section also includes a public education and promotion program that:

(a) Gives notice to each person of the opportunity to recycle; and

(b) Encourages source separation of recyclable material.

SECTION 41. ORS 459A.005, as amended by section 2, chapter 534, Oregon Laws 2015, is amended to read:

459A.005. (1) As used in ORS 459.015, 459.250 and 459A.005 to 459A.665, the "opportunity to recycle" means at least that the city, county or metropolitan service district responsible for solid waste management:

(a)(A) Provides a place for collecting source separated recyclable material, **including the materials on the uniform statewide collection list established under section 19 of this 2021 Act designated for collection at a recycling depot**, located either at a disposal site or at another location more convenient to the population being served and, if a city has a population of 4,000 or more, collection at least once a month of source separated recyclable material, **including the materials on the uniform statewide collection list established under section 19 of this 2021 Act designated for on-route collection, in a manner that is at least as convenient as garbage collection service**, from collection service customers within the city's urban growth boundary or, where applicable, within the urban growth boundary established by a metropolitan service district; or

(B) Provides an alternative method that complies with rules of the Environmental Quality Commission; and

(b) Complies with the program element requirements described in ORS 459A.007.

(2) The “opportunity to recycle” defined in subsection (1) of this section also includes a public education and promotion program that:

(a) Gives notice to each person of the opportunity to recycle; and

(b) Encourages source separation of recyclable material.

(3) As used in this section, “collection service customers” includes:

(a) Customers of a collection service as defined in ORS 459.005; and

(b) The residential and commercial tenants of landlords or property managers that are customers of a collection service for the benefit of their tenants.

SECTION 42. ORS 459A.007 is amended to read:

459A.007. (1) A person providing the opportunity to recycle shall fulfill the requirements of subsection (3) of this section using the following recycling program elements:

(a) Provision of at least one durable recycling container to each residential service customer.

(b) On-route collection at least once each week of source separated recyclable material from residential collection service customers, provided on the same day that solid waste is collected from each customer.

(c) An expanded education and promotion program as described in ORS 459A.008.

(d) A multifamily collection program that includes:

(A) Collection of [*at least four principal recyclable materials or the number of materials required to be collected under the residential on-route collection program, whichever is less,*] **materials designated for collection on the uniform statewide collection list established under section 19 of this 2021 Act** from each multifamily dwelling complex that has five or more units; and

(B) Education and promotion directed to the residents of the multifamily dwelling complex.

(e) An effective residential yard debris collection and composting program that includes the promotion of home composting of yard debris, and that also includes either:

(A) Monthly or more frequent on-route collection of yard debris from residential collection service customers for production of compost or other marketable products; or

(B) A system of yard debris collection depots conveniently located and open to the public at least once a week.

(f) A commercial recycling program that includes:

(A) Weekly, or on a more appropriate regular schedule, onsite collection of source separated [*principal recyclable*] materials **designated for collection on the uniform statewide collection list established under section 19 of this 2021 Act** from, at a minimum, commercial generators of solid waste employing 10 or more persons and occupying 1,000 square feet or more in a single location.

(B) An education and promotion program conducted to inform all commercial generators of solid waste of the manner and benefits of the commercial recycling program that provides effective promotion of the program to the generators.

(C) Other optional elements, including but not limited to waste assessments and recycling recognition programs. A city or county is encouraged to involve local business organizations in publicly recognizing outstanding recycling efforts by commercial generators of solid waste. The recognition may include awards designed to provide additional incentives to increase recycling efforts.

(D) Each commercial generator of solid waste shall strive to achieve 55 percent recovery from its solid waste stream by the year 2025.

(g) Expanded depots for recycling of at least all [*principal recyclable*] materials **designated for collection at recycling depots on the uniform**

statewide collection list established under section 19 of this 2021 Act,
and provisions for promotion or education to maximize the use of the depots.

The depots must:

(A) Have regular and convenient hours;

(B) Be open on the weekend days; and

(C) When feasible, collect additional recyclable materials.

(h) Solid waste residential collection rates that encourage waste reduction, reuse and recycling through reduced rates for smaller containers, including at least one rate for a container that is 21 gallons or less in size.

Based on the average weight of solid waste disposed per container for containers of different sizes, the rate on a per pound disposed basis may not decrease with increasing size of containers, and the rates per container service may not be less with additional containers serviced.

(i) A collection and composting system for food and other compostable waste from commercial and institutional entities that generate large amounts of such wastes.

(j) A commercial recycling program that requires commercial generators of solid waste that generate large amounts of recyclable materials to source separate recyclable materials.

(k) A program for monthly or more frequent on-route collection and composting for food and other compostable waste from residential collection service customers. The program described in this paragraph must include education or promotion to reduce contamination of the compost feedstock collected.

(L) A recovery program for construction and demolition debris that:

(A) Requires construction and demolition debris to be source separated at the generation site or sent to a material recovery facility for processing and recovery; and

(B) Includes an education or promotion program for developers, contractors and residential owners that provides strategies to:

(i) Reduce waste during preconstruction planning and in building con-

struction, renovation and demolition phases; and

(ii) Direct waste to reuse and material recovery facilities.

(m) A food waste collection program requiring nonresidential generators that generate large amounts of food waste to source separate the food waste for recovery.

(2) The waste prevention education and reuse program elements that a city or county shall use to implement the requirements of subsection (6) or (7) of this section are as follows:

(a) A citywide or countywide education and promotion program about the environmental benefits of, and opportunities to reduce the generation of waste through, waste prevention and reuse.

(b) A waste prevention campaign targeting residential generators of waste and focused on one or more toxic or energy intensive materials or consumer purchasing practices.

(c) A waste prevention campaign targeting commercial or institutional generators of waste and focused on one or more toxic or energy intensive materials or consumer purchasing practices.

(d) A waste prevention and reuse education program in elementary and secondary schools.

(e) A program for the provision of city or watershed funding or infrastructure support to promote and sustain reuse, repair, leasing or sharing efforts.

(f) A program for the provision of city or watershed technical assistance to promote and sustain the reuse, repair or leasing of materials or other sharing of efforts to reduce waste.

(g) City or watershed support for a food rescue program that diverts to residents food that would otherwise be composted or disposed.

(3) Each city that is within a metropolitan service district or with a population of at least 4,000 and each county that is responsible for the area between city limits and the urban growth boundary of the city or the area outside the city limits but within a metropolitan service district shall im-

plement either:

(a) The applicable number of recycling program elements for the size and location of the city as provided in subsection (4) of this section; or

(b) An alternative program that complies with the rules of the Environmental Quality Commission and that is designed to be as effective in recovering recyclable materials from solid waste as the requirements provided in subsection (4) of this section and to achieve at least the lesser of:

(A) Recovery rates specified in ORS 459A.010 (2); or

(B) Recovery levels comparable to similar communities.

(4) The number of recycling program elements that cities and counties must implement to comply with subsection (3) of this section are as follows:

(a) For cities within a metropolitan service district:

(A) The three recycling program elements set forth under subsection (1)(a), (b) and (c) of this section and at least four additional *[elements]* **element** set forth under subsection (1) of this section; or

(B) At least eight recycling program elements set forth under subsection (1) of this section.

(b) For cities with a population of at least 4,000 but not more than 10,000 that are located 120 miles or less from the City of Portland, at least four recycling program elements set forth under subsection (1) of this section.

(c) For cities with a population of at least 4,000 but not more than 10,000 that are more than 120 miles from the City of Portland, at least three recycling program elements set forth under subsection (1) of this section.

(d) For cities with a population of more than 10,000 but not more than 50,000 that are located 150 miles or less from the City of Portland:

(A) The three recycling program elements set forth under subsection (1)(a), (b) and (c) of this section and at least two additional elements set forth under subsection (1) of this section; or

(B) At least six recycling program elements set forth under subsection (1) of this section.

(e) For cities with a population of more than 10,000 that are located more

1 than 150 miles from the City of Portland:

2 (A) The three recycling program elements set forth under subsection
3 (1)(a), (b) and (c) of this section and at least one additional elements set forth
4 under subsection (1) of this section; or

5 (B) At least five recycling program elements set forth under subsection
6 (1) of this section.

7 (f) For cities with a population of more than 50,000 that are located 150
8 miles or less from the City of Portland:

9 (A) The three recycling program elements set forth under subsections
10 (1)(a), (b) and (c) of this section and at least three additional recycling pro-
11 gram elements set forth under subsection (1) of this section; or

12 (B) At least seven recycling program elements set forth under subsection
13 (1) of this section.

14 (5) A city or county that is not subject to subsection (6) or (7) of this
15 section may substitute the waste prevention and reuse program element set
16 forth in subsection (2)(a) of this section and at least two additional elements
17 set forth in subsection (2) of this section for one recycling program element
18 set forth under subsection (1) of this section.

19 (6) Each city that is within a metropolitan service district or with a
20 population of greater than 50,000 and each county that is responsible for the
21 area between city limits and the urban growth boundary of a city with a
22 population of greater than 50,000 or the area outside of city limits but within
23 a metropolitan service district urban growth boundary shall implement ei-
24 ther:

25 (a) The waste prevention and reuse program element set forth under sub-
26 section (2)(a) of this section, and at least four additional elements set forth
27 under subsection (2) of this section; or

28 (b) An alternative program that complies with the rules of the Environ-
29 mental Quality Commission and is designed to achieve similar benefits as the
30 elements in subsection (2) of this section.

31 (7) Each city with a population of greater than 10,000 but no more than

50,000, that is within a county of greater than 100,000 population, and each county of greater than 100,000 population that is responsible for the area between city limits and the urban growth boundary of a city with a population of greater than 10,000 but no more than 50,000 shall implement either:

(a) The waste prevention and reuse program element set forth under subsection (2)(a) of this section, and at least two additional elements set forth under subsection (2) of this section; or

(b) An alternative program that complies with the rules of the Environmental Quality Commission and is designed to achieve similar benefits as the elements in subsection (2) of this section.

(8)(a) For a city using waste prevention and reuse elements set forth under subsection (2) of this section to satisfy requirements set forth in subsection (6) or (7) of this section, waste prevention and reuse elements may be provided by the county or metropolitan service district where the city is located, provided that implementation or provisions of such elements are made available throughout the city.

(b) For a county that includes or is within a metropolitan service district using waste prevention and reuse elements set forth under subsection (2) of this section to satisfy requirements set forth in subsection (6) or (7) of this section, waste prevention and reuse elements may be provided by the metropolitan service district where the county is located, provided that implementation or provision of such elements are made available within the entire urban growth boundary of the metropolitan service district.

(9)(a) Each local government that franchises or licenses the collection of solid waste and establishes the rates to be charged for collection service shall:

(A) Include in those rates all net costs incurred by the local government, franchisee or licensee for providing the opportunity to recycle and for implementing the requirements of this section; or

(B) Fund implementation of the opportunity to recycle through an alternative source of funding that may include but is not limited to disposal fees.

(b) As used in this subsection, “net costs” includes but is not limited to the reasonable costs for collecting, handling, processing, storing, transporting and delivering to market recyclable material and for providing any required education and promotion or data collection services adjusted by a factor to account for proceeds from the sale of recyclable material.

(10) A local government may assess a fee on solid waste collection or disposal services to cover costs to the local government for providing the opportunity to recycle and for implementing the requirements of this section.

SECTION 43. ORS 459A.008 is amended to read:

459A.008. An expanded education and promotion program to satisfy the requirements of ORS 459A.007 must carry out the policy set forth in ORS 459.015, inform generators of solid waste of the manner and benefits of reducing, reusing, recycling and composting material, promote use of recycling services and reduce contamination in collected recyclables. The city, county or metropolitan service district responsible for providing an opportunity to recycle shall provide the education and promotion program in one of the following ways:

(1)(a) Preparing and implementing an education and promotion plan that includes actions to effectively reach solid waste generators and all new and existing collection service customers as necessary to fulfill the intent of this section.

(b) The plan described in paragraph (a) of this subsection must be submitted to the Department of Environmental Quality during the first year that the plan is in effect. Thereafter, the wasteshed shall submit a summary of activities in the plan to the department at the same time the county submits the periodic report required under ORS 459A.050 (1)(a). The summary must cover at least the time period until the next periodic report is due to the department.

(2) Implementing all of the following:

(a)(A) Provision of recycling notification and education packets to all new residential, commercial and institutional collection service customers that

include, at a minimum, information about the materials collected, the schedule for collection, the way to prepare materials for collection, why separating material for recycling is necessary and how to reduce contamination of the materials set out for collection.

(B) In addition to the requirements of subparagraph (A) of this paragraph, the educational and promotional materials provided to commercial collection customers must:

(i) Be targeted to meet the needs of various types of businesses;

(ii) Include information on the economic and other benefits of recycling, common barriers to recycling and solutions to the barriers, additional resources for commercial generators of solid waste and other information designed to assist and encourage recycling efforts and reduce contamination; and

(iii) Encourage each commercial collection customer to have a goal to achieve 55 percent recovery from the customer's solid waste stream by 2025.

(b) Provision of recycling information to collection service customers, in a variety of formats and materials at least four times per calendar year, that includes, at a minimum, the materials collected and the schedule for collection.

(c) Provision, at least annually, of the information described in paragraph (a) of this subsection to all residential, commercial and institutional collection service customers.

(d) Targeting of community and media events to promote recycling and reduce contamination in collected recyclables.

[(e) A program to determine the levels of contamination of materials set out for collection and to take action to reduce contamination in collected recyclables.]

SECTION 44. ORS 459A.025 is amended to read:

459A.025. (1) According to the requirements of ORS chapter 183, the Environmental Quality Commission shall adopt rules and guidelines necessary to carry out the provisions of ORS 459.005, 459.015, 459.035, 459.250, 459.992

(1) and (2), 459.995 and 459A.005 to 459A.665, including but not limited to:

(a) Acceptable alternative methods for providing the opportunity to recycle;

(b) Education, promotion and notice requirements, which requirements may be different for disposal sites and collection systems;

(c) Identification of the wastesheds within the state;

[(d) Identification of the principal recyclable material in each wasteshed;]

[(e)] (d) Guidelines for local government units and other persons responsible for implementing the provisions of ORS 459.005, 459.015, 459.035, 459.250, 459.992 (1) and (2), 459.995 and 459A.005 to 459A.665; and

[(f)] (e) Standards for the joint submission of the recycling reports required under ORS 459A.050 (1).

(2) In adopting rules or guidelines under this section, the commission shall consider:

(a) The policy stated in ORS 459.015.

(b) Systems and techniques available for recycling, including but not limited to existing recycling programs.

(c) Availability of markets for recyclable material.

(d) Costs of collecting, storing, transporting and marketing recyclable material.

(e) Avoided costs of disposal.

(f) Density and characteristics of the population to be served.

(g) Composition and quantity of solid waste generated and potential recyclable material found in each wasteshed.

SECTION 45. ORS 459A.075 is amended to read:

459A.075. Nothing in *[ORS 459.005, 459.015, 459.035, 459.250, 459.992, 459.995 and 459A.005 to 459A.665]* **ORS 459A.080 (3) and 459A.085** applies to recyclable material *[which]* **that** is:

(1) Source separated by the generator; and

(2) Purchased from or exchanged by the generator for fair market value for recycling or reuse.

SECTION 46. ORS 459A.080 is amended to read:

459A.080. A person may not:

(1) Without the permission of the owner or generator of recyclable material, take recyclable material set out to be collected by a person authorized by a city or county to provide collection service for that recyclable material.

(2) Remove any recyclable material from a container, box, collection vehicle, depot or other receptacle for the accumulation or storage of recyclable material without permission of the owner of the receptacle.

(3)(a) **Except as provided in paragraph (b) of this subsection,** mix source separated recyclable material with solid waste in any **landfill or** vehicle, box, container or receptacle used in solid waste collection or disposal.

(b) The Environmental Quality Commission may establish by rule exemptions from the prohibition against mixing source separated recyclable materials contained in paragraph (a) of this subsection.

SECTION 47. ORS 459.035 is amended to read:

459.035. Consistent with ORS 459.015 [(2)(c)] **(2)(e)**, the Department of Environmental Quality shall provide to state agencies, local government units and persons providing collection service, advisory technical and planning assistance in development and implementation of effective solid waste management plans and practices, implementation of recycling programs under ORS 459.250, 459A.005 to 459A.120 and 459A.600 to 459A.620, and assistance in training of personnel in solid waste management. The department shall report to the Legislative Assembly from time to time on further assistance that will be needed to develop, implement and administer effective solid waste management programs or recycling programs. The department shall assist in surveys to locate potential disposal sites. The department may request the assistance of other state agencies.

SECTION 48. ORS 459.772 is amended to read:

459.772. Notwithstanding any other provision of ORS 459.015, for purposes of encouraging the use of waste tires under ORS 459.705 to 459.790, the use of processed, source-separated waste tires having a positive market value as

a new product to recover energy shall be considered recycling under ORS 459.015 [(2)(a)(C)] **(2)(c)(C)**.

SECTION 49. ORS 90.318 is amended to read:

90.318. (1) In a city or the county within the urban growth boundary of a city that has implemented multifamily recycling service, a landlord who has five or more residential dwelling units on a single premises or five or more manufactured dwellings in a single facility shall at all times during tenancy provide to all tenants:

(a) A separate location for containers or depots for [*at least four principal recyclable materials or for the number of materials required to be collected under the residential on-route collection program, whichever is less,*] **materials designated for collection on the uniform statewide collection list established under section 19 of this 2021 Act**, adequate to hold the reasonably anticipated volume of each material;

(b) Regular collection service of the source separated recyclable materials; and

(c) Notice at least once a year of the opportunity to recycle with a description of the location of the containers or depots on the premises and information about how to recycle. New tenants shall be notified of the opportunity to recycle at the time of entering into a rental agreement.

(2) As used in this section, “recyclable material” and “source separate” have the meaning given those terms in ORS 459.005.

REPEALS

SECTION 50. ORS 459A.675, 459A.680 and 459A.685 are repealed.

TEMPORARY PROVISIONS

SECTION 51. (1) A producer responsibility organization shall complete the first study required under section 13 of this 2021 Act no later

1 than December 31, ____.

2 (2) A producer responsibility organization shall first submit a pro-
3 gram plan to the Department of Environmental Quality under section
4 6 of this 2021 Act no later than July 1, 2022.

5 SECTION 52. (1) The Department of Environmental Quality shall
6 first report the findings of the study conducted under section 22 of this
7 2021 Act to the Environmental Quality Commission no later than
8 September 15, ____.

9 (2) The Oregon Department of Administrative Services shall first
10 complete the assessment required by section 34 of this 2021 Act no
11 later than September 15, 2022.

12 SECTION 53. Notwithstanding the term of office specified in section
13 15 of this 2021 Act, of the members first appointed to the Oregon Re-
14 cycling System Advisory Council:

15 (1) Four shall serve for terms ending June 30, 2023;

16 (2) Four shall serve for terms ending June 30, 2024; and

17 (3) Five shall serve for terms ending June 30, 2025.

18
19 **UNIT AND SECTION CAPTIONS**
20

21 SECTION 54. The unit and section captions used in this 2021 Act
22 are provided only for the convenience of the reader and do not become
23 part of the statutory law of this state or express any legislative intent
24 in the enactment of this 2021 Act.