House Bill 2065

Introduced and printed pursuant to House Rule 12.00. Presession filed (at the request of Governor Kate Brown for Oregon Department of Environmental Quality)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure as introduced.

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.


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


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

MODERNIZING OREGON'S RECYCLING SYSTEM

(Legislative Findings; Definitions)

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

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

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

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

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

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

(5) “Contamination” means the presence of one or more contaminants in a recycling collection or commodity stream in an amount or concentration that negatively impacts the value of the material or negatively impacts a processor's ability to sort that material.

(6)(a) “Covered product” means:

(A) Packaging;

(B) Printing and writing paper; and

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

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

(ii) Aluminum foil; and

(iii) Pie plates.

(b) “Covered product” does not include:

(A) A beverage container, as defined in ORS 459A.700, that is returned for the refund value established by ORS 459A.705 and is recycled;

(B) Bound books; and

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

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

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

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

(8) “Litter” means waste that is improperly placed so as to be a nuisance or aesthetic, health or environmental concern.
“Local government” means:
(a) A city with a population of 4,000 or more;
(b) A county;
(c) A metropolitan service district; or
(d) A local government as described by the Environmental Quality Commission by rule.
(10) “Local government's agent” includes a collection service franchise holder under ORS 459A.085 or any person authorized by a city, county or metropolitan service district to provide collection service.
(11) “Market share” means a producer's percentage of all covered products sold in this state during a specified time period, as calculated in accordance with methods established by the Environmental Quality Commission by rule.
(12) “Mechanical recycling” means a form of recycling that does not change the basic molecular structure of the material being recycled.
(13) “Metropolitan service district” means a metropolitan service district established under ORS chapter 268.
(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 administer a producer responsibility program approved by the Department of Environmental Quality under section 7 of this 2021 Act.
(20) “Producer responsibility program” means a statewide program for the responsible management of covered products that is operated by a producer responsibility organization pursuant to a plan approved by the Department of Environmental Quality under section 7 of this 2021 Act.

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

(a) Benefits the environment; and

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

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

(a) Is a nonprofit organization;

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

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

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

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

(Producer Responsibility Organizations)

SECTION 4. Duties of producers and producer responsibility organizations. (1) Except as provided in section 5 of this 2021 Act and subsection (2) of this section, each producer that sells, offers to sell or distributes a covered product in this state must register with and be a member of a producer responsibility organization that operates a producer responsibility program approved by the Department of Environmental 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:

(a) Describe how the producer responsibility organization will manage and administer a producer responsibility program to meet the organization’s obligations under sections 2 to 36 of this 2021 Act, including a description of how the organization will:

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

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

(C) Maximize the use of existing infrastructure.

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

(E) Establish, calculate and charge base fees and provide incentives as described in section 9 of this 2021 Act.
(F) Encourage producers to design products that are beneficial to the environment through a graduated fee structure.

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

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

(I) Ensure that covered products collected for recycling will be transferred to responsible end markets, including:
   (i) The type and general locations of end markets that may use the material collected from covered products in the manufacture of new products;
   (ii) How the organization will follow the hierarchy of materials management options described in ORS 459.015 (2);
   (iii) How the organization will ensure that environmentally protective management is maintained through to final disposition of the covered product;
   (iv) Arrangements the producer responsibility organization has made with processors to ensure that materials are recycled at a responsible end market, including any investment intended to be made to support processors; and
   (v) For any material that will be marketed for use through a method other than mechanical recycling, an analysis of the emissions impacts for the proposed method compared to the emissions impacts of mechanical recycling or the emissions impacts of disposal as solid waste.

(J) Provide public outreach and education, including:
   (i) A communications program for responding to questions; and
   (ii) Outreach to local governments to ensure information is accurate and consistent across the state.

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

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

(b) Identify and provide contact information for the producer responsibility organization and each producer registered with the proposed program.

(c) Describe the structure of the producer responsibility organization, including the management structure and roles and functions of committees.

(d) Describe how the producer responsibility organization will communicate and coordinate with the department, local governments, recycling collection service providers, processors and any other producer responsibility organizations and the topics of communication or coordination.

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

(f) Describe any efforts the producer responsibility organization will make to support collection, processing or responsible recycling of specifically identified materials, including:
   (A) Any efforts to support or provide depot or mobile collection of specifically identified materials;
   (B) Any efforts to use education and promotion to encourage proper participation in on-route collection of specifically identified materials;
   (C) Any investments to support the successful processing of specifically identified mate-
(D) Any efforts to develop or support responsible end markets for specifically identified materials; and

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

(g) Describe the fee structure of the producer responsibility organization, including a schedule of the fees actually charged to members.

(h) Demonstrate that the fees collected by the producer responsibility organization will provide adequate revenue to fund all costs associated with the producer responsibility program, including but not limited to costs for:

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

(B) The collection, processing, transportation and disposal of materials;

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

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

(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 on which the department receives the plan or plan amendment from the producer responsibility organization. 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 amendment 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 or-
organization may propose in a plan or plan amendment an alternative fee structure. The De-
partment 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 or-
organization may establish uniform fees for members that sell or distribute a disproportion-
ately 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.
(b) The Environmental Quality Commission may establish by rule standards for estab-
lishing fees under this subsection.

SECTION 10. Annual report. (1) No later than July 1 of each year, a producer responsi-
bility organization must submit to the Department of Environmental Quality an annual re-
port on the development, implementation and operation of the producer responsibility
program. The annual report must:
(a) Cover the prior calendar year;
(b) Present information in a manner that can be understood by the general public; and
(c) Be otherwise prepared in the form and manner prescribed by the department.

(2) The annual report must include:
(a) A list of the producers that participated in the producer responsibility program;
(b) A list of any producers found to be out of compliance with the producer responsibility
program plan and steps taken to bring those producers into compliance;
(c) The total amount, by weight and type of material, of covered products sold or distri-
buted in this state by participating producers in the prior calendar year;
(d) A description of the producer responsibility organization's efforts to ensure that the
collected covered products were responsibly recycled and delivered to responsible end mar-
kets;
(e) A summary of payments requested by local governments and paid by the producer
responsibility organization under section 11 of this 2021 Act;
(f) A summary of payments made to satisfy the producer responsibility organization’s
obligations under sections 2 to 36 of this 2021 Act;
(g) A summary of the financial status of the producer responsibility organization, in-
including annual expenditures, revenues and assets;

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

(i) A description of activities undertaken by the producer responsibility organization that relate to the uniform statewide collection list established under section 19 of this 2021 Act;

(j) A summary of efforts taken by the producer responsibility organization to meet the statewide plastic packaging recovery goal established under section 20 of this 2021 Act and efforts planned to maintain performance in meeting the goal or, if the goal has not been met, efforts planned to meet the goal;

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

(L) Recommendations for any changes to the producer responsibility organization’s plan to improve recovery and recycling;

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

(n) A summary of actions actually taken or planned by the organization to improve end markets, processing infrastructure or the resiliency of the producer responsibility program;

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

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

(q) An evaluation of the producer responsibility organization’s compliance with sections 2 to 36 of this 2021 Act and, if necessary, 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 de-
partment, 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 Commission 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 organ-
ization shall, in consultation with local governments, develop educational resources to pro-
mote 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 pro-
gram;
(b) Techniques to properly prepare materials for recycling;
(c) Education on the importance of not placing contaminants in commingled recycling
systems; and
(d) Container signs or decals.
(2) Educational resources developed under this section must be:
(a) Culturally responsive to diverse audiences across this state, including people who
speak languages other than English and people with disabilities;
(b) Printed or produced in languages other than English; and
(c) Widely available.
(3) A producer responsibility organization shall make the educational resources developed
under this section available to local governments in a form that allows each local govern-
ment to customize the resources to reflect local conditions.
(4) When consulting with a producer responsibility organization under subsection (1) of
this section, a local government must take responsibility to ensure that the educational re-
sources meet the needs of diverse audiences within the local government's community.
(5) A local government shall utilize and distribute educational resources developed under
this section. A local government may incorporate the educational resources developed under
this section into an existing education program developed to satisfy the requirements of ORS
459A.007.
(6)(a) Except as provided in paragraph (b) of this subsection, educational resources de-
veloped under this section must be reviewed by the Oregon Recycling System Advisory
Council established under section 15 of this 2021 Act and approved by the Department of
Environmental Quality before public distribution.
(b) Changes or alterations to educational resources previously approved by the depart-
ment that do not materially affect the substance of the information conveyed do not require
review or approval under this subsection.

SECTION 13. Other duties of producer responsibility organization. (1)(a) A producer re-
sponsibility 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 recommenda-
dations for improving spaces that are determined to be inadequate.
(b) A producer responsibility organization shall provide the results of the study con-
ducted 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 carry out 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 providing 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.

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

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

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

(7) The Department of Environmental Quality shall provide administrative and staff support and facilities as necessary for the council to carry out the duties of the council.

(8) A member of the council is entitled to compensation and expenses in the manner and amounts provided for in ORS 292.495. Claims for compensation and expenses incurred in performing functions of the council shall be paid out of funds appropriated to the department for that purpose.

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

SECTION 16. Duties of council. (1) The Oregon Recycling System Advisory Council established under section 15 of this 2021 Act shall:
   (a) Review activities that affect Oregon’s recycling system;
   (b) Advise the Department of Environmental Quality and producer responsibility organizations on issues affecting Oregon’s recycling system;
   (c) Review producer responsibility program plans submitted under section 6 of this 2021 Act, plan amendments submitted under section 8 of this 2021 Act and program reports submitted under section 10 of this 2021 Act; and
(d) Make written recommendations to the department and producer responsibility organizations on matters that the council determines are beneficial to the public interest, including:

(A) Matters related to producer responsibility program plans created to satisfy the requirements of section 6 of this 2021 Act, program plan audits and reports required by the plans, including:
   (i) Producer fee structures described in section 9 of this 2021 Act;
   (ii) Depot or mobile collection events for recyclable items; and
   (iii) Other aspects of a producer responsibility program intended to improve access to recycling, including access for residents of multifamily housing.

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

(C) The manner in which producer responsibility organization fees will be distributed to local governments under section 11 of this 2021 Act, including:
   (i) Review of statewide transportation, reload reimbursement and other formulaic elements; and
   (ii) Priorities for system funding where discretion is provided in statute or in rules adopted by the Environmental Quality Commission.

(D) Statewide educational resources and campaigns.

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

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

(3) No later than September 15 of each even-numbered year, the council shall submit to the appropriate interim committees of the Legislative Assembly, in the manner provided by ORS 192.245, a report 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 government 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 material to be collected via on-route collection or at recycling depots in different geographic areas.

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

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

(b) Environmental health and safety considerations;

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

(d) The material’s compatibility with existing recycling infrastructure;

(e) The amount of the material available;

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

(g) Contamination;

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

(i) Economic factors;

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

(k) The policy expressed in ORS 459.015.

(4) The Department of Environmental Quality shall establish a uniform statewide collection list. The list established under this subsection must include:

(a) The materials identified by the commission under subsection (1)(a) of this section and the collection methods for those materials; and
(b) Covered products and the collection methods for those covered products, if any, proposed for recycling collection by a producer responsibility organization in a producer responsibility program plan or plan amendment and approved by the department under section 7 of this 2021 Act.

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

(6) A material that is not identified for collection as part of a commingled recycling program on the uniform statewide collection list may be collected as part of a commingled recycling program if:
   (a) The material is collected as part of a trial or research program;
   (b) The trial or research program is of limited duration; and
   (c) The trial or research program is conducted in a limited area.

(7) The commission shall establish by rule collection targets, convenience standards and performance standards for producer responsibility organizations that collect covered products identified by the commission under subsection (1)(b) of this section.

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

(9) In determining whether a material, or a covered product, is a specifically identified material, the department shall consider criteria that include, but need not be limited to:
   (a) Whether processing equipment improvements are needed to sort the material;
   (b) The availability of viable end markets for the material;
   (c) The market value of the material; and
   (d) Whether the inclusion of the material or covered product in recycling collection programs would cause an increase in costs to ratepayers.

SECTION 20. Plastic packaging recovery rate. (1)(a) It is the goal 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 re-
duction 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
   (B) Standards for providing feedback to generators that contribute to contamination.
(2) A local government described in ORS 459A.007 (3) or a person that provides for the collection of source separated recyclables pursuant to ORS 459.250 or 459A.005 shall establish a program to reduce contamination that:
   (a) Uses materials or methods approved by the department under subsection (1)(c)(A) of this section; or
   (b) Uses materials or methods that are at least as effective as materials or methods approved by the department under subsection (1)(c)(A) of this section.
(3) The Environmental Quality Commission shall establish by rule enforcement standards for a contamination reduction program developed under subsection (2) of this section. Rules adopted under this subsection must:
   (a) Limit enforcement to generators that are significant and repeated sources of contamination;
   (b) Require a local government or disposal site operator to provide feedback to generators consistent with the standards described in subsection (1)(c)(B) of this section before taking an enforcement action against a generator; and
   (c) Require that any enforcement action against a generator take into account the individual circumstances of the generator, including language barriers and income.
(4) If a contamination reduction program established under subsection (2) of this section does not result in a reduction of contamination that equals or exceeds the local recycling contamination reduction goals established under subsection (1)(a)(B) of this section, the local government or disposal site operator shall introduce additional contamination reduction program elements until the program 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 require-
ments 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 calendar 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,

(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 section. 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:

(a) “Chasing arrows symbol” means:
(A) An equilateral triangle formed by three arrows, curved at their midpoints, depicting a clockwise path, with a short gap separating the apex of each arrow from the base of the adjacent arrow; or
(B) A substantially similar symbol.
(b) “Resin identification code” means a number that corresponds with a type of plastic resin used to make a plastic product or its packaging.
(2)(a) A person may not distribute, sell or offer to sell, including by means of remote sale, any product that makes a deceptive or misleading claim about the recyclability of the product or the product's packaging in this state.

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

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

(B) The product is labeled in accordance with rules adopted by the Environmental Quality Commission under subsection (3) of this section.

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

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

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

(Commingled Recycling Processing Facilities)

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

(2) A disposal site permit issued to a commingled recycling processing facility must require the facility to:

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

(b) Market materials to responsible end markets;

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

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

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

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

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

(2) A commingled recycling processing facility certified under this section must satisfy
the requirements of section 29 of this 2021 Act.

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 inbound contamination.

(2) Information described in subsection (1) of this section may be provided to collectors or local governments.

(Enforcement)

SECTION 32. (1) The Department of Environmental Quality shall have the power to enter upon and inspect, at any reasonable time, any public or private property, premises or place for the purpose of investigating either an actual or suspected violation of sections 2 to 36 of this 2021 Act.

(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.

(3) In accordance with the applicable provisions of ORS chapter 183 relating to contested case proceedings, the department may issue an order requiring compliance with the provisions of sections 2 to 36 of this 2021 Act.

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

(a) A violation or repeated violations of sections 2 to 36 of this 2021 Act present a risk to the environment or public health; or

(b) A violation has had a material impact on the implementation and administration of the organization's producer responsibility program plan.

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

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

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

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

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

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

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

(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 neces-
sary 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.

(10) “Franchise” includes a franchise, certificate, contract or license issued by a local government unit authorizing a person to provide solid waste management services.

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

(12) “Household hazardous waste” means any discarded, useless or unwanted chemical, material, substance or product that is or may be hazardous or toxic to the public or the environment and is commonly used in or around households and is generated by the household. “Household hazardous waste” may include but is not limited to some cleaners, solvents, pesticides and automotive and paint products.
(13) “Land disposal site” means a disposal site in which the method of disposing of solid waste is by landfill, dump, pit, pond or lagoon.

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

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

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

(17) “Materials management” means an approach that seeks to reduce environmental impacts by managing materials throughout all stages of their life cycle, including but not limited to solid waste management.

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

[(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 materials.

SECTION 38. ORS 459.015 is amended to read:

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

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

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

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

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

(e) There are limits to Oregon’s natural resources and the capacity of the state’s environment to absorb the impacts of increasing consumption of resources, increasing waste generation and increasing solid waste disposal.

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

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

(h) The purpose of waste prevention, reuse, recycling, composting and waste recovery in
Oregon is to conserve resources, reduce pollution and optimize environmental benefits, while taking into consideration the impacts of materials and products across the full life cycle, from raw material extraction to end-of-use management.

(i) It is necessary, in order to protect the health and promote the well-being of all residents in Oregon, to acknowledge and align Oregon’s sustainable materials management policy with principles of environmental and social justice across the life cycle of materials consumed in this state.

(j) Producers of materials sold or distributed in Oregon, regardless of their location, are responsible for creating and implementing appropriate actions that ensure their products and packaging designs consistently reduce negative environmental, health and social burdens across the life cycle of their products and packaging. Such actions include incorporating sustainably extracted raw materials, implementing sustainable manufacturing best practices that are more resource-efficient and less environmentally harmful and toxic, minimizing the generation of waste and release of pollution and sharing in the responsibility for appropriate management of discarded materials at the end of their useful life.

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

(a) After consideration of technical and economic feasibility, establish priority in methods of managing solid waste in Oregon as follows: Minimize the net negative impacts of materials, across their life cycle, on human well-being and environmental health, including the quality of land, air, water and ecosystems, with consideration of technical and economic feasibility.

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

(c) If information on the net negative impacts described in paragraph (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, 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.
vided 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 regulation and the extension of that authority under the provisions of this section and ORS 459.125 and 459A.005 to 459A.085.

[(c)] (e) Retain primary responsibility for management of adequate solid waste management programs with cities, counties or metropolitan service districts, reserving to the state those functions necessary to ensure effective programs, cooperation among cities, counties or metropolitan service districts and coordination of solid waste management programs throughout the state.

[(d)] (f) Promote, encourage and develop markets first for reusable material and then for recyclable material.

[(e)] (g) Promote research, surveys and demonstration projects to encourage material or energy recovery.

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

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

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

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

[(j)] (L) Provide authority for counties to establish a coordinated program for solid waste management, to regulate solid waste management and to license or franchise the providing of service in the field of solid waste management.

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

[(L)] (n) Promote means of preventing or reducing at the source, materials [which] that otherwise would constitute solid waste.

[(m)] (o) Promote application of material or energy recovery systems [which] that preserve and enhance the quality of air, water and land resources.

(p) Provide for recycling collection and processing systems that have adequate capacity and are operated for the purpose of achieving the policy set forth in this section and providing clean, usable materials to industry.

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

SECTION 39. ORS 459.995 is amended to read:

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

(a) Any person who violates ORS 459.205, 459.270, 459.272, 459.386 to 459.405, 459.705 to 459.790, 459A.005 to 459A.620, 459A.310 to 459A.335[, 459A.675 to 459A.685] or 646A.080 or sections 2 to

[28]
36 of this 2021 Act, or any rule or order of the Environmental Quality Commission pertaining to the disposal, collection, storage or reuse or recycling of solid wastes, as defined by ORS 459.005, or any rule or order pertaining to the disposal, storage or transportation of waste tires, as defined by ORS 459.705, or any rule or order pertaining to the sale of novelty items that contain encapsulated liquid mercury, incurs a civil penalty not to exceed $25,000 per day for each day of the violation.

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

(c) For each day a city, county or metropolitan service district fails to provide the opportunity to recycle as required under ORS 459A.005, the city, county or metropolitan service district incurs a civil penalty not to exceed $500 for each violation.

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

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

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

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

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

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

SECTION 40. ORS 459A.005 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.

[29]
(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 construction, 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 wasteshed funding or infrastructure support to promote and sustain reuse, repair, leasing or sharing efforts.

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

(g) City or wasteshed 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 implement 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 than 150 miles 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 one additional elements set forth under subsection (1) of this section; or

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

(f) For cities with a population of 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 subsections (1)(a), (b) and (c) of this
section and at least three additional recycling program elements set forth under subsection (1) of
this section; or

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

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

(6) Each city that is within a metropolitan service district or with a population of greater than
50,000 and each county that is responsible for the area between city limits and the urban growth
boundary of a city with a population of greater than 50,000 or the area outside of city limits but
within a metropolitan service district urban growth boundary shall implement either:

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

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

(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 Commis-
seven 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 lo-
cated, 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 estab-
ishes 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 recy-
cling 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 ef-
ectively 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, commer-
cial 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 contam-
ination; and

(iii) Encourage each commercial collection customer to have a goal to achieve 55 percent re-
covery 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 re-
ceptacle 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)(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 po-
tential 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 imple-
mented 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 pro-
gram, 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

[36]
SECTION 51. (1) A producer responsibility organization shall complete the first study required under section 13 of this 2021 Act no later than December 31, _______.

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

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

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

SECTION 53. Notwithstanding the term of office specified in section 15 of this 2021 Act, of the members first appointed to the Oregon Recycling System Advisory Council:

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

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

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

UNIT AND SECTION CAPTIONS

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