

SB 582-1
(LC 2232)
2/12/21 (STN/ps)

Requested by SENATE COMMITTEE ON ENERGY AND ENVIRONMENT

**PROPOSED AMENDMENTS TO
SENATE BILL 582**

1 In line 2 of the printed bill, delete “and prescribing an effective date” and
2 insert: “creating new provisions; amending ORS 90.318, 459.005, 459.015,
3 459.035, 459.772, 459.995, 459A.005, 459A.007, 459A.008, 459A.025 and 459A.080
4 and section 3, chapter 534, Oregon Laws 2015; and repealing ORS 459A.675,
5 459A.680 and 459A.685.

6 Delete lines 4 through 11 and insert:

7

8 **“MODERNIZING OREGON’S RECYCLING SYSTEM**

9

“(Legislative Findings; Definitions)”

10

11 **“SECTION 1. Legislative findings. The Legislative Assembly finds**
12 **and declares that:**

13 **“(1) Oregon’s statewide recovery rate, which seeks to preserve**
14 **public health, safety and welfare and conserve energy and natural re-**
15 **sources, has declined each year between 2013 and 2018, and that Oregon**
16 **is not on track to meet the statewide waste recovery and generation**
17 **goals that the Legislative Assembly established in 2015.**

18 **“(2) The way Oregon’s residents use and consume materials and**
19 **products, and the way residents manage them when no longer wanted,**
20 **has changed significantly in the 35 years since Oregon’s first recycling**
21 **programs were established, and that the state’s recycling policies were**

1 not designed to address such changes. These factors have created
2 unintended consequences, such as the deterioration of natural systems
3 regionally and worldwide, as well as increased levels of pollution,
4 greenhouse gas emissions that contribute to global climate change and
5 reductions in human well-being, especially for the most vulnerable
6 populations.

7 “(3) It is necessary to adopt a policy that will minimize such unin-
8 tended consequences across the entire life cycle of products and that
9 will require producers of packaging and printed paper sold or distrib-
10 uted in Oregon to help finance the management of and ensure an en-
11 vironmentally sound stewardship program for their products.

12 “(4) It is the State of Oregon’s policy to prioritize practices that
13 prevent and reduce the negative environmental, social, economic and
14 health impacts of production, consumption and end-of-use manage-
15 ment of products and packaging across their life cycle. It is the obli-
16 gation of producers to share in the responsibility to reduce those
17 impacts.

18 **“SECTION 2. Definitions. As used in sections 1 to 43 of this 2021**
19 **Act:**

20 “(1) ‘Aggregation point’ means:

21 “(a) A location where covered products are transferred from a col-
22 lection vehicle into a container or vehicle that is used to transport the
23 covered products to a processing facility; or

24 “(b) A recycling depot location where recyclables are collected and
25 consolidated from the general public, if located more than 50 miles
26 from the location where those materials are subsequently sent for
27 processing or use.

28 “(2) ‘Brand’ means any mark, word, name, symbol, design, device
29 or graphical element, or a combination thereof, including a registered
30 or unregistered trademark, that identifies a product and distinguishes

1 it from other products.

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

6 “(4)(a) ‘Commingled recycling processing facility’ means a facility
7 that:

8 “(A) Receives source separated recyclable materials that are col-
9 lected from a collection program providing the opportunity to recycle;
10 and

11 “(B) Separates the recyclable materials described in subparagraph
12 (A) of this paragraph into marketable commodities or streams of ma-
13 terials that are intended for use or further processing by others.

14 “(b) ‘Commingled recycling processing facility’ does not include:

15 “(A) Scrap metal recycling facilities;

16 “(B) Scrap automotive or appliance recycling facilities;

17 “(C) Full-service redemption centers or dealer redemption centers,
18 as those terms are defined in ORS 459A.700, and recycling facilities
19 owned and operated by a distributor cooperative established under
20 ORS 459A.718;

21 “(D) Recycling facilities handling covered electronic devices, as de-
22 fined in ORS 459A.305;

23 “(E) Recycling processing facilities that only process
24 noncommingled, source separated recyclable material from commer-
25 cial entities;

26 “(F) Recycling processing facilities dedicated to processing con-
27 struction and demolition debris that handle an incidental volume of
28 commingled recyclable material recovered from the construction and
29 demolition debris waste stream; or

30 “(G) Limited sort facilities, as defined by rule by the Environmental

1 **Quality Commission.**

2 **“(5) ‘Contaminant’ means:**

3 **“(a) A material set out for recycling collection that is not on the**
4 **list of materials accepted for recycling collection by a recycling col-**
5 **lection program; or**

6 **“(b) A material shipped to a recycling end market that is not ac-**
7 **cepted or desired by that end market.**

8 **“(6) ‘Contamination’ means the presence of one or more contam-**
9 **inants in a recycling collection or commodity stream in an amount**
10 **or concentration that negatively impacts the value of the material or**
11 **negatively impacts a processor’s ability to sort that material.**

12 **“(7)(a) ‘Covered product’ means:**

13 **“(A) Packaging;**

14 **“(B) Printing and writing paper; and**

15 **“(C) Food serviceware.**

16 **“(b) ‘Covered product’ does not include:**

17 **“(A) A beverage container, as defined in ORS 459A.700.**

18 **“(B) Bound books.**

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

21 **“(D) Rigid pallets used as the structural foundation for transporting**
22 **goods lifted by a forklift, pallet jack or similar device.**

23 **“(E) Specialty packaging items that are used exclusively in indus-**
24 **trial or manufacturing processes, including but not limited to:**

25 **“(i) Cores and wraps for rolls of packaging sold by a mill to a**
26 **packaging converter or food processor; and**

27 **“(ii) Trays, whether designed for a single use or multiple uses, used**
28 **for the transport of component parts from a parts supplier to a man-**
29 **ufacturer that assembles those parts.**

30 **“(F) Liquified petroleum gas containers that are designed to be re-**

1 **filled.**

2 **“(G) Any item that is not ultimately discarded inside this state,**
3 **whether for purposes of recovery or disposal.**

4 **“(H) Any other material, as determined by the commission by rule.**

5 **“(8) ‘Equity’ means the effort to provide different levels of support**
6 **based on an individual’s or group’s needs in order to achieve fairness**
7 **in outcomes and the acknowledgment that not all people and commu-**
8 **nities are starting from the same place due to historic and current**
9 **systems of oppression. Equity requires the redistribution of resources,**
10 **power and opportunity to communities most impacted by systemic**
11 **oppression.**

12 **“(9) ‘Food serviceware’ means paper or plastic plates, wraps, cups,**
13 **bowls, cutlery, straws, aluminum foil or clamshells or similar con-**
14 **tainers:**

15 **“(a) That are generally intended for single use; and**

16 **“(b) That are sold to a retailer or a dine-in food establishment or**
17 **a take-out food establishment, regardless of whether the item is used**
18 **to prepackage food for resale, is filled on site for food ordered by a**
19 **customer or is resold as is.**

20 **“(10) ‘Large producer’ means a producer that:**

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

23 **“(b) Is among the 50 largest producers of covered products based**
24 **on market share.**

25 **“(11) ‘Litter’ means waste that is improperly placed so as to be a**
26 **nuisance or aesthetic, health or environmental concern.**

27 **“(12) ‘Local government’ means:**

28 **“(a) A city;**

29 **“(b) A county; or**

30 **“(c) A metropolitan service district.**

1 **“(13) ‘Local government’s service provider’ means a collection ser-**
2 **vice franchise holder under ORS 459A.085 or any person authorized by**
3 **a city, county or metropolitan service district to provide collection**
4 **service.**

5 **“(14) ‘Market share’ means a producer’s percentage of all covered**
6 **products sold in or into this state during a specified time period, as**
7 **calculated in accordance with methods established by the commission**
8 **by rule.**

9 **“(15) ‘Mechanical recycling’ means a form of recycling that does**
10 **not change the basic molecular structure of the material being recy-**
11 **cled.**

12 **“(16) ‘Metropolitan service district’ means a metropolitan service**
13 **district established under ORS chapter 268.**

14 **“(17) ‘Nonprofit organization’ means an organization or group of**
15 **organizations described in section 501(c)(3) of the Internal Revenue**
16 **Code that is exempt from income tax under section 501(a) of the**
17 **Internal Revenue Code.**

18 **“(18) ‘Opportunity to recycle’ has the meaning given that term in**
19 **ORS 459A.005.**

20 **“(19) ‘Packaging’ means:**

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

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

25 **“(c) Nondurable materials used in storage, shipping or moving, in-**
26 **cluding but not limited to packing materials, moving boxes, file boxes**
27 **and folders; and**

28 **“(d) Other materials and forms, as determined by the commission**
29 **by rule.**

30 **“(20) ‘Person’ has the meaning given that term in ORS 459.005.**

1 “(21) ‘Printing and writing paper’ includes, but is not limited to,
2 newspaper, magazines, flyers, brochures, booklets, catalogs, telephone
3 directories and paper used for copying, writing or other general use.

4 “(22) ‘Processor’ means a person that owns or operates a
5 commingled recycling processing facility.

6 “(23) ‘Producer’ means a person who is determined to be the pro-
7 ducer of a covered product under section 4 of this 2021 Act.

8 “(24) ‘Producer responsibility organization’ means a nonprofit or-
9 ganization established by a producer or group of producers to admin-
10 ister a producer responsibility program.

11 “(25) ‘Producer responsibility program’ means a statewide program
12 for the responsible management of covered products that is adminis-
13 tered by a producer responsibility organization pursuant to a plan ap-
14 proved by the Department of Environmental Quality under section 6
15 of this 2021 Act.

16 “(26) ‘Recoverable’ means materials suitable for recovery from solid
17 waste.

18 “(27) ‘Recycling collection’ means the act or process of gathering
19 recyclable materials by:

20 “(a) On-route residential collection from the generator at the place
21 of generation;

22 “(b) On-site nonresidential collection from the generator at the
23 place of generation;

24 “(c) Multifamily on-route residential collection from each multi-
25 family dwelling that has five or more units;

26 “(d) Recycling depots at a disposal site or another designated lo-
27 cation that is more convenient to the population being served and ex-
28 panded depots as described in ORS 459A.007;

29 “(e) Other collection methods included in an approved producer re-
30 sponsibility program plan; or

1 “(f) An alternative program that provides the opportunity to recy-
2 cle.

3 “(28) ‘Recycling system’ means all aspects of the programs and
4 participants who have a role in Oregon’s statewide recycling structure,
5 including producers of products sold in or into Oregon, generators of
6 recycling materials, governments that regulate materials management
7 programs, businesses that collect and process recycling materials and
8 persons that receive recycling materials to convert to new feedstock
9 or products.

10 “(29) ‘Responsible end market’ means a materials market in which
11 the recycling or recovery of materials or the disposal of contaminants
12 is conducted in a way that benefits the environment and minimizes
13 risks to public health and worker health and safety.

14 “(30) ‘Responsible management’ means the handling, tracking and
15 disposition of covered products from the point of collection through
16 the final destination of the collected material in a way that benefits
17 the environment and minimizes risks to public health and worker
18 health and safety.

19 “(31) ‘Responsible recycling’ means the handling of covered pro-
20 ducts for recycling and removal of contaminants by a certified or
21 permitted processor and disposition to a responsible end market.

22 “(32) ‘Small producer’ means a producer that:

23 “(a) Is a nonprofit organization;

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

25 “(c) Has a gross revenue of less than \$1 million for the
26 organization’s most recent fiscal year; or

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

30 “(33) ‘Specifically identified material’ means a material or covered

1 product identified by the Department of Environmental Quality under
2 section 23 of this 2021 Act.

3 “(34) ‘Uniform statewide collection list’ means the list of materials
4 established in accordance with the requirements of section 22 (4) of
5 this 2021 Act.

6

7 “(Producer Responsibility Organizations)

8

9 “SECTION 3. Determining producers of covered products. For pur-
10 poses of sections 1 to 43 of this 2021 Act, the producer of a covered
11 product shall be determined as follows:

12 “(1)(a) For products sold in packaging at a physical retail location
13 in this state:

14 “(A) If the product is sold in packaging under the manufacturer’s
15 own brand or is sold in packaging that lacks identification of a brand,
16 the producer of the packaging is the person who manufactures the
17 product;

18 “(B) If the product is manufactured by a person other than the
19 brand owner, the producer of the packaging is the person who is the
20 owner or licensee of a brand or trademark under which a packaged
21 product is used in a commercial enterprise, sold, offered for sale or
22 distributed in or into this state, whether or not the trademark is reg-
23 istered in this state; or

24 “(C) If there is no person described in subparagraphs (A) and (B)
25 of this paragraph within the United States, the producer of the pack-
26 aging is the person who imports the packaged product into the United
27 States for use in a commercial enterprise that sells, offers for sale or
28 distributes the product in this state.

29 “(b) For products sold in packaging in or into this state via remote
30 sale:

1 “(A) The producer of packaging used to directly protect or contain
2 the product is the same as the producer for purposes of paragraph (a)
3 of this subsection.

4 “(B) The producer of packaging used to ship the product to a con-
5 sumer is the person who sells the product to the consumer.

6 “(2)(a) For printing and writing paper that is a magazine, newspa-
7 per, catalog, telephone directory or similar publication, the producer
8 is the publisher.

9 “(b) For printing and writing paper not described in paragraph (a)
10 of this subsection, the producer is:

11 “(A) The person who manufactures the printing or writing paper
12 under the manufacturer’s own brand;

13 “(B) If the printing or writing paper is manufactured by a person
14 other than the brand owner, the person who is the owner or licensee
15 of a brand or trademark under which the printing and writing paper
16 is used in a commercial enterprise, sold, offered for sale or distributed
17 in or into this state, whether or not the trademark is registered in this
18 state; or

19 “(C) If there is no person described in subparagraphs (A) and (B)
20 of this paragraph within the United States, the person who imports the
21 printing and writing paper into the United States for use in a com-
22 mercial enterprise that sells, offers for sale or distributes the printing
23 and writing paper in this state.

24 “(3) The producer of food serviceware is the person who first sells
25 the food serviceware in or into this state.

26 “SECTION 4. Producers and producer responsibility organizations.

27 (1) Except as provided in section 5 of this 2021 Act and subsection (2)
28 of this section, each producer must register with and be a member of
29 a producer responsibility organization that administers a producer re-
30 sponsibility program.

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

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

8 “(a) Pay the fee calculated under the schedule established by the
9 producer responsibility organization pursuant to section 11 of this 2021
10 Act; and

11 “(b) Upon request, provide the producer responsibility organization
12 with records or other information necessary for the organization to
13 meet its obligations under sections 1 to 43 of this 2021 Act.

14 “(4) A person who sells a covered product in or into this state via
15 remote means and who is only the producer of the packaging used to
16 ship the covered product, as determined under section 3 (1)(b)(B) of
17 this 2021 Act, must notify the producer of the covered product, as de-
18 termined under section 3 (1)(a) of this 2021 Act, and the seller’s pro-
19 ducer responsibility organization of the sale of a packaged product in
20 or into this state.

21 “(5) A producer responsibility organization’s obligations under
22 sections 1 to 43 of this 2021 Act to ensure the recycling of materials
23 by responsible end markets apply to covered products that are:

24 “(a) Identified by rule under section 22 (1) of this 2021 Act;

25 “(b) Identified on the uniform statewide collection list;

26 “(c) Identified on the list of specifically identified materials; or

27 “(d) Targeted for recycling as necessary to meet the statewide
28 plastic recycling goal established under section 27 of this 2021 Act.

29 “(6) A producer responsibility organization shall make available on
30 the organization’s website and update at least once per month:

1 “(a) A searchable registry of the organization’s compliant members;
2 and

3 “(b) The identity of any members that are currently not in compli-
4 ance with sections 1 to 43 of this 2021 Act and the reason for non-
5 compliance.

6 “(7)(a) If the Department of Environmental Quality approves more
7 than one producer responsibility program, the producer responsibility
8 organizations with approved programs shall establish a producer re-
9 sponsibility organization coordinating body and submit a coordination
10 plan to the department for approval. If requested by the producer re-
11 sponsibility organizations, the department may serve as the coordi-
12 nating body or form or oversee the coordinating body.

13 “(b) The Environmental Quality Commission shall establish by rule:

14 “(A) Methods for calculating market share;

15 “(B) Standards and requirements for coordination plans and coor-
16 dination between producer responsibility organizations;

17 “(C) A process for submittal, review, approval or rejection and re-
18 vocation of coordination plans; and

19 “(D) A process for the department to issue an order requiring a
20 coordination plan.

21 “(c) A coordination plan approved or ordered by the department
22 shall be implemented by all producer responsibility organizations. If
23 the coordination plan conflicts with an approved program plan, the
24 details of the coordination plan prevail.

25 “(d) A coordination plan approved or ordered by the department is
26 valid until revoked or a new coordination plan is approved by the de-
27 partment.

28 “(e) The producer responsibility organization coordinating body
29 shall submit for approval a new coordination plan on a schedule that
30 coincides with the schedule for producer responsibility organizations

1 to submit new producer responsibility program plans.

2 “(8) A producer responsibility organization must ensure that each
3 member of its organization complies with subsection (3) of this sec-
4 tion. The organization shall notify the department within 30 days of:

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

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

10 “(9) A producer responsibility organization may not register a pro-
11 ducer as a member of the organization if the producer is in violation
12 of section 36 of this 2021 Act or rules adopted under section 36 of this
13 2021 Act.

14 “(10) A producer responsibility organization must provide contact
15 information for any of the organization’s registered members to the
16 department upon request.

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

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

24 **“SECTION 6. Producer responsibility program plan.** (1) A producer
25 responsibility organization shall submit to the Department of Envi-
26 ronmental Quality, in a form and manner prescribed by the depart-
27 ment, a plan for the development and implementation of a producer
28 responsibility program.

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

1 “(a) Describe how the producer responsibility organization will
2 manage and administer a producer responsibility program to meet the
3 organization’s obligations under sections 1 to 43 of this 2021 Act, in-
4 cluding a description of how the organization will:

5 “(A) Support the collection and recycling of covered products that
6 are included on the uniform statewide collection list or as necessary
7 to meet the statewide plastic recycling goal established under section
8 27 of this 2021 Act.

9 “(B) Provide for the collection of covered products identified by the
10 Environmental Quality Commission under section 22 (1)(b) of this 2021
11 Act and meet convenience and performance standards for those cov-
12 ered products.

13 “(C) Maximize the use of existing infrastructure, subject to consid-
14 eration of technical and economic feasibility.

15 “(D) Ensure the responsible management of covered products and
16 other materials collected with those covered products.

17 “(E) Establish, calculate and charge base fees and provide incen-
18 tives as described in section 11 of this 2021 Act.

19 “(F) Encourage producers to make continual reductions in the en-
20 vironmental and human health impacts of covered products through
21 a graduated fee structure as described in section 11 of this 2021 Act.

22 “(G) Ensure that materials are managed and disposed of consistent
23 with the goals, standards and practices required by sections 1 to 43 of
24 this 2021 Act.

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

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

30 “(ii) Whether any of those end markets are certified for environ-

1 **mental and social sustainability by certification programs approved**
2 **by the commission under section 37 of this 2021 Act;**

3 **“(iii) How the organization will follow the hierarchy of materials**
4 **management options described in ORS 459.015 (2);**

5 **“(iv) How the organization will ensure that responsible management**
6 **is maintained through to final disposition of the covered product;**

7 **“(v) Arrangements the producer responsibility organization has**
8 **made with processors to ensure that materials are recycled at a re-**
9 **sponsible end market, including any investment intended to be made**
10 **to support processors; and**

11 **“(vi) For any material that will be marketed for use through a**
12 **method other than mechanical recycling, an analysis of the environ-**
13 **mental impacts for the proposed method compared to the environ-**
14 **mental impacts of mechanical recycling or the environmental impacts**
15 **of disposal as solid waste.**

16 **“(I) Provide public outreach and education, including:**

17 **“(i) A communications program for responding to questions in-**
18 **volving the uniform statewide collection list and recycling services**
19 **provided under section 15 of this 2021 Act;**

20 **“(ii) Outreach to local governments to ensure information is accu-**
21 **rate and consistent across this state; and**

22 **“(iii) Statewide promotional campaigns as described in section 14**
23 **of this 2021 Act.**

24 **“(J) Implement the requirements of section 16 of this 2021 Act.**

25 **“(K) Take actions to address the findings of any report submitted**
26 **under section 29 of this 2021 Act since the organization’s last plan or**
27 **plan amendment was approved and implement recommendations in-**
28 **cluded in the report.**

29 **“(L) Implement improvements identified by any study conducted**
30 **under section 30 of this 2021 Act since the organization’s last plan or**

1 **plan amendment was approved.**

2 **“(b) Identify and provide contact information for the producer re-**
3 **sponsibility organization and identify each producer registered with**
4 **the proposed program.**

5 **“(c) Describe the structure of the producer responsibility organiza-**
6 **tion, including the management structure and roles and functions of**
7 **committees.**

8 **“(d) Describe how the producer responsibility organization will**
9 **communicate and coordinate with the department, the Oregon Recy-**
10 **cling System Advisory Council, local governments, recycling collection**
11 **service providers, processors and any other producer responsibility**
12 **organizations and the topics of communication or coordination.**

13 **“(e) Describe a process for how the producer responsibility organ-**
14 **ization will resolve any disputes involving compensation of local gov-**
15 **ernments and local governments’ service providers under section 13**
16 **of this 2021 Act and disputes involving commingled recycling process-**
17 **ing facilities and compost facilities under sections 24 to 26 of this 2021**
18 **Act.**

19 **“(f) Include projections on recycling rates for plastic.**

20 **“(g) Describe any efforts the producer responsibility organization**
21 **will make to support collection, processing or responsible recycling of**
22 **specifically identified materials, including:**

23 **“(A) Any efforts to support or provide depot or mobile collection**
24 **of specifically identified materials;**

25 **“(B) Any efforts to use education and promotion to encourage**
26 **proper participation in recycling collection of specifically identified**
27 **materials;**

28 **“(C) Any investments to support the successful processing of spe-**
29 **cifically identified materials;**

30 **“(D) Any efforts to develop or support responsible end markets for**

1 specifically identified materials; and

2 “(E) Any other efforts to ensure successful and responsible recycl-
3 ing of specifically identified materials.

4 “(h) Describe the fee structure of the producer responsibility or-
5 ganization, including a schedule of the fees actually charged to mem-
6 bers.

7 “(i) Demonstrate that the fees collected by the producer responsi-
8 bility organization will provide adequate revenue to fund all costs as-
9 sociated with the producer responsibility program, including but not
10 limited to costs for:

11 “(A) The fees established under sections 31 and 32 of this 2021 Act;

12 “(B) The collection, processing, transportation and disposal of ma-
13 terials;

14 “(C) The development of educational resources under section 14 of
15 this 2021 Act;

16 “(D) Litter and marine debris programs under section 16 of this 2021
17 Act;

18 “(E) Payment of fees to commingled recycling processing facilities
19 and compost facilities under sections 24 to 26 of this 2021 Act; and

20 “(F) Reimbursements to local governments and local governments’
21 service providers under section 13 of this 2021 Act.

22 “(j) For any program plan submitted by a producer responsibility
23 organization following its initial program plan, describe how fee ad-
24 justments offered in response to the requirements of section 11 of this
25 2021 Act have been modified in order to meet the objectives described
26 in subsection (2)(a)(F) of this section and section 11 of this 2021 Act
27 or in response to any evaluation conducted under section 12 of this
28 2021 Act during the time period covered by the prior program plan.

29 “(k) Describe how the producer responsibility organization will en-
30 sure that local government ratepayers are protected from increased

1 costs associated with the processing and marketing of recyclables
2 identified in section 22 of this 2021 Act.

3 “(L) Include a process for promptly notifying the department, the
4 Oregon Recycling System Advisory Council and producers of potential
5 noncompliance with the requirements of sections 1 to 43 of this 2021
6 Act by a producer or producer responsibility organization.

7 “(m) Describe reserve funds or other contingency plans for re-
8 sponding to changes in markets or other circumstances that could
9 affect the effectiveness of the program, including the amount of funds
10 in reserves and a description of what contingencies those reserve funds
11 will be sufficient to address.

12 “(n) Include a closure plan to settle the affairs of the producer re-
13 sponsibility organization that ensures that producers will continue to
14 meet their obligations in the event of dissolution of the organization
15 and describes a process for notifying the department, the Oregon Re-
16 cycling System Advisory Council and local governments of the dissol-
17 ution. The closure plan must include sufficient reserve funds to allow
18 the producer responsibility organization to satisfy all obligations until
19 such time as producer members have joined a different producer re-
20 sponsibility organization.

21 “(o) Include methods for advance funding or reimbursements to
22 local governments or local governments’ service providers under sec-
23 tion 13 of this 2021 Act.

24 “(p) Include any other information required by the department to
25 determine that a producer responsibility organization is capable of
26 meeting its obligations under sections 1 to 43 of this 2021 Act.

27 “(3) Upon approval of the plan or a plan amendment by the de-
28 partment, a producer responsibility organization must implement the
29 approved plan or plan amendment.

30 “SECTION 7. Approval by department. (1)(a) The Department of

1 Environmental Quality shall approve, approve with conditions or re-
2 ject a plan submitted under section 6 this 2021 Act or an amendment
3 to a plan submitted under section 10 of this 2021 Act no later than 120
4 days after the date on which the department receives the plan or plan
5 amendment from the producer responsibility organization. The de-
6 partment shall approve a plan or a plan amendment if it determines
7 that the plan or plan amendment complies with the requirements of
8 section 6 of this 2021 Act. If the department rejects the plan or plan
9 amendment, the department shall provide in writing the reason for the
10 rejection.

11 “(b) If the department rejects a plan or plan amendment under
12 paragraph (a) of this subsection, the producer responsibility organiza-
13 tion must submit a revised plan or revised plan amendment to the
14 department no later than 60 days from the date of the rejection. The
15 department shall either approve, approve with conditions or reject the
16 revised plan or revised plan amendment no later than 90 days after
17 receiving the revised plan or revised plan amendment. The department
18 shall approve the revised plan or plan amendment if the department
19 determines that the revised plan or plan amendment complies with the
20 requirements of section 6 of this 2021 Act. If the department rejects
21 the revised plan or revised plan amendment, the department shall
22 provide in writing the reason for the rejection and:

23 “(A) Direct changes to the revised plan or plan amendment; or

24 “(B) Require the producer responsibility organization to submit a
25 second revision no later than 60 days from the date of the rejection.

26 “(c) If the department directs changes to a revised plan or plan
27 amendment pursuant to paragraph (b)(A) of this subsection, the pro-
28 ducer responsibility organization must implement the change or re-
29 quest a hearing under ORS chapter 183. If the department requires a
30 second revision pursuant to paragraph (b)(B) of this subsection, and

1 the department does not approve the second revision, the department
2 may bring an enforcement action for a violation of this subsection.

3 “(d) If a producer responsibility organization requests a hearing or
4 is subject to enforcement pursuant to paragraph (c) of this subsection,
5 the producer responsibility organization shall continue to implement
6 a previously approved plan, or if there is no previously approved plan
7 in place, implement a plan at the direction of the department until a
8 plan is approved under this section.

9 “(2) Before approving, approving with conditions or rejecting a plan
10 or plan amendment under this section, the department shall solicit
11 feedback on the plan or plan amendment from the Oregon Recycling
12 System Advisory Council. The department must make the plan or plan
13 amendment available for public comment for a period of no less than
14 30 days before approving, approving with conditions or rejecting the
15 plan or plan amendment. The department must respond to the
16 council’s written recommendations if received within 75 days of the
17 date the department transmitted the plan or plan amendment to the
18 council.

19 “(3) A plan approved by the department under this section is valid
20 for three years. The department’s rejection of a plan or plan amend-
21 ment submitted for approval under this section does not relieve the
22 producer responsibility organization from continuing to implement the
23 producer responsibility program in compliance with the approved plan
24 pending a final action by the department on the plan amendment.

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

1 **under this subsection is approved the previously approved plan re-**
2 **mains in effect.**

3 **“SECTION 8.** Section 7 of this 2021 Act is amended to read:

4 **“Sec. 7.** (1)(a) The Department of Environmental Quality shall approve,
5 approve with conditions or reject a plan submitted under section 6 this 2021
6 Act or an amendment to a plan submitted under section 10 of this 2021 Act
7 no later than 120 days after the date on which the department receives the
8 plan or plan amendment from the producer responsibility organization. The
9 department shall approve a plan or a plan amendment if it determines that
10 the plan or plan amendment complies with the requirements of section 6 of
11 this 2021 Act. If the department rejects the plan or plan amendment, the
12 department shall provide in writing the reason for the rejection.

13 **“(b)** If the department rejects a plan or plan amendment under paragraph
14 (a) of this subsection, the producer responsibility organization must submit
15 a revised plan or revised plan amendment to the department no later than
16 60 days from the date of the rejection. The department shall either approve,
17 approve with conditions or reject the revised plan or revised plan amendment
18 no later than 90 days after receiving the revised plan or revised plan
19 amendment. The department shall approve the revised plan or plan amend-
20 ment if the department determines that the revised plan or plan amendment
21 complies with the requirements of section 6 of this 2021 Act. If the depart-
22 ment rejects the revised plan or revised plan amendment, the department
23 shall provide in writing the reason for the rejection and:

24 **“(A)** Direct changes to the revised plan or plan amendment; or

25 **“(B)** Require the producer responsibility organization to submit a second
26 revision no later than 60 days from the date of the rejection.

27 **“(c)** If the department directs changes to a revised plan or plan amend-
28 ment pursuant to paragraph (b)(A) of this subsection, the producer responsi-
29 bility organization must implement the change or request a hearing under
30 ORS chapter 183. If the department requires a second revision pursuant to

1 paragraph (b)(B) of this subsection, and the department does not approve the
2 second revision, the department may bring an enforcement action for a vio-
3 lation of this subsection.

4 “(d) If a producer responsibility organization requests a hearing or is
5 subject to enforcement pursuant to paragraph (c) of this subsection, the
6 producer responsibility organization shall continue to implement a previ-
7 ously approved plan, or if there is no previously approved plan in place,
8 implement a plan at the direction of the department until a plan is approved
9 under this section.

10 “(2) Before approving, approving with conditions or rejecting a plan or
11 plan amendment under this section, the department shall solicit feedback on
12 the plan or plan amendment from the Oregon Recycling System Advisory
13 Council. The department must make the plan or plan amendment available
14 for public comment for a period of no less than 30 days before approving,
15 approving with conditions or rejecting the plan or plan amendment. The de-
16 partment must respond to the council’s written recommendations if received
17 within 75 days of the date the department transmitted the plan or plan
18 amendment to the council.

19 “(3) A plan approved by the department under this section is valid for
20 [*three*] **five** years. The department’s rejection of a plan or plan amendment
21 submitted for approval under this section does not relieve the producer re-
22 sponsibility organization from continuing to implement the producer respon-
23 sibility program in compliance with the approved plan pending a final action
24 by the department on the plan amendment.

25 “(4) No less than 180 days before a plan approved under this section ex-
26 pires, a producer responsibility organization shall submit a plan to be ap-
27 proved under this section for an additional [*four*] **five** years. A plan
28 submitted for approval under this subsection must satisfy the requirements
29 of section 6 of this 2021 Act and describe any substantive changes from the
30 previously approved plan. Until a plan submitted under this subsection is

1 approved the previously approved plan remains in effect.

2 **“SECTION 9. The amendments to section 7 of this 2021 Act by sec-**
3 **tion 8 of this 2021 Act become operative on April 1, 2027.**

4 **“SECTION 10. Producer responsibility program plan amendments.**

5 **(1) A producer responsibility organization shall submit an amendment**
6 **to a producer responsibility program plan:**

7 **“(a) When proposing to change an approved producer responsibility**
8 **program plan as it relates to the producer responsibility organization’s**
9 **obligations:**

10 **“(A) Under section 6 (2)(a), (g) to (i), (L), (n) or (p) of this 2021 Act;**

11 **“(B) Under section 16 of this 2021 Act; and**

12 **“(C) Under section 22 of this 2021 Act.**

13 **“(b) When changing methods used to establish fees under section**
14 **11 of this 2021 Act.**

15 **“(c) When changing methods of compensating local governments**
16 **as required under section 13 of this 2021 Act.**

17 **“(d) When required to do so under section 30 of this 2021 Act.**

18 **“(e) When the Department of Environmental Quality identifies or**
19 **removes one or more specifically identified materials under section 23**
20 **of this 2021 Act.**

21 **“(f) When required to do so under section 27 of this 2021 Act.**

22 **“(g) When required to do so under section 29 of this 2021 Act.**

23 **“(h) When required to do so by rules adopted by the Environmental**
24 **Quality Commission.**

25 **“(2) Not less than once per month, a producer responsibility or-**
26 **ganization shall provide written notice to the department of any**
27 **changes made during the previous month to a producer responsibility**
28 **program plan that are changes for which an amendment is not re-**
29 **quired under subsection (1) of this section.**

30 **“SECTION 11. Fees charged by producer responsibility organization.**

1 (1) A producer responsibility organization shall establish a schedule
2 of fees to be paid by members of the organization. The fees established
3 pursuant to this section must be sufficient to meet the financial obli-
4 gations of the organization under sections 1 to 43 of this 2021 Act.

5 “(2) A schedule established under this section must establish a base
6 fee rate for all covered products sold or distributed in or into this state
7 by a member of the producer responsibility organization. The base fee
8 paid by each producer member shall be calculated by multiplying the
9 base fee rate by the total amount of covered products sold or distrib-
10 uted by the producer in or into this state.

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

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

17 “(b) Are not recoverable.

18 “(4) In addition to the base fees described in subsections (2) and (3)
19 of this section, a producer responsibility organization’s fee schedule
20 must incentivize producers to continually reduce the environmental
21 and human health impacts of covered products by offering fee adjust-
22 ments to producers that make or have made changes to the ways in
23 which they produce, use and market covered products. Fee adjust-
24 ments developed under this subsection must include lower fees for
25 covered products with a lower environmental impact and higher fees
26 for covered products with a higher environmental impact. In estab-
27 lishing the criteria for the graduated fee structure, a producer re-
28 sponsibility organization must consider factors that include, but are
29 not limited to:

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

1 **“(b) The product-to-package ratio;**

2 **“(c) The producer’s choice of material; and**

3 **“(d) Life cycle environmental impacts, as demonstrated by an**
4 **evaluation performed in accordance with section 33 of this 2021 Act.**

5 **“(5) Notwithstanding subsections (2) to (4) of this section, a pro-**
6 **ducer responsibility organization may propose to the Department of**
7 **Environmental Quality in a plan or plan amendment an alternative fee**
8 **structure. The department may approve an alternative fee structure**
9 **if the department determines that the structure:**

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

11 **“(b) Provides incentives to members to change the way the mem-**
12 **bers produce, use and market materials in order to reduce environ-**
13 **mental impacts.**

14 **“(6) Notwithstanding subsections (2) to (4) of this section, a pro-**
15 **ducer responsibility organization may establish uniform fees for**
16 **members that had a gross revenue of less than \$5 million for the**
17 **organization’s most recent fiscal year, or sold in or into Oregon less**
18 **than five metric tons of covered products for use in the state in the**
19 **most recent calendar year.**

20 **“SECTION 12. Annual report. (1) No later than July 1 of each year,**
21 **a producer responsibility organization must submit to the Department**
22 **of Environmental Quality for approval by the department an annual**
23 **report on the development, implementation and operation of the pro-**
24 **ducer responsibility program. The annual report must:**

25 **“(a) Cover the prior calendar year;**

26 **“(b) Present information in a manner that can be understood by the**
27 **general public; and**

28 **“(c) Be otherwise prepared in the form and manner prescribed by**
29 **the department.**

30 **“(2) The annual report must include:**

1 “(a) A list of the producers that participated in the producer re-
2 sponsibility program;

3 “(b) A list of any producers found to be out of compliance with the
4 producer responsibility program plan and steps taken to bring those
5 producers into compliance;

6 “(c) The total amount, by weight and type of material, of covered
7 products sold or distributed in or into this state by participating pro-
8 ducers in the prior calendar year;

9 “(d) A description of the producer responsibility organization’s ef-
10 forts to ensure that the collected covered products were responsibly
11 managed and delivered to responsible end markets;

12 “(e) A complete accounting and summary of payments requested
13 by local governments and their designated service providers and paid
14 by the producer responsibility organization under section 13 of this
15 2021 Act;

16 “(f) A description of all expansions and improvements to recycling
17 collection systems that have been paid for by the producer responsi-
18 bility organization, whether those expansions or improvements have
19 been implemented, the funds provided for such expansions and im-
20 provements, and what collection programs are still scheduled for ex-
21 pansion or improvements in the remaining duration of the producer
22 responsibility program plan;

23 “(g) A summary of payments paid by the producer responsibility
24 organization under sections 24 to 26 of this 2021 Act;

25 “(h) A summary of all other payments made to satisfy the producer
26 responsibility organization’s obligations under sections 1 to 43 of this
27 2021 Act, including but not limited to payments made to support re-
28 sponsible recycling of specifically identified materials, as described in
29 section 23 of this 2021 Act;

30 “(i) A summary of the financial status of the producer responsibil-

1 **ity organization, including annual expenditures, revenues and assets;**

2 **“(j) The fee schedule described in section 11 of this 2021 Act and, for**
3 **the reporting year, the fees collected pursuant to that schedule;**

4 **“(k) A description of activities undertaken by the producer respon-**
5 **sibility organization that relate to the requirements of section 16 of**
6 **this 2021 Act, including an accounting of expenditures;**

7 **“(L) A description of activities undertaken by the producer respon-**
8 **sibility organization that relate to the uniform statewide collection list**
9 **and the specifically identified materials list;**

10 **“(m) An assessment of whether the organization has met collection**
11 **targets, convenience standards and performance standards established**
12 **by the Environmental Quality Commission under section 22 of this 2021**
13 **Act and efforts planned to meet or continue meeting such targets and**
14 **standards;**

15 **“(n) A summary of efforts taken by the producer responsibility or-**
16 **ganization to meet the statewide plastic recycling goal established**
17 **under section 27 of this 2021 Act and efforts planned to maintain per-**
18 **formance in meeting the goal or, if the goal has not been met, efforts**
19 **planned to meet the goal;**

20 **“(o) The results, with an emphasis on equity issues, including but**
21 **not limited to those established under section 29 of this 2021 Act, of**
22 **any in-person site inspections, material tracking or other audits con-**
23 **ducted during the reporting year, including whether any major safety**
24 **or environmental management practices were not properly followed**
25 **and, if so, the corrective actions taken;**

26 **“(p) Recommendations for any changes to the producer responsi-**
27 **bility organization’s plan to improve recovery and recycling;**

28 **“(q) A summary of the quarterly reports described in subsection (6)**
29 **of this section and an evaluation of the adequacy of end markets;**

30 **“(r) A summary of actions actually taken or planned by the organ-**

1 ization to improve end markets, processing infrastructure or the
2 resiliency of the producer responsibility program;

3 “(s) A summary of efforts taken to implement recommendations to
4 improve equity in the recycling system identified in a report under
5 section 29 of this 2021 Act;

6 “(t) The number of producers that received each type of fee ad-
7 justment offered under section 11 of this 2021 Act and the amount of
8 covered products, by material and format, for which producers re-
9 ceived each type of adjustment;

10 “(u) An evaluation of the effectiveness of fee adjustments at en-
11 couraging producers to reduce the environmental and human health
12 impacts of covered products, with relation to the factors and criteria
13 used by the producer responsibility organization’s fee structure;

14 “(v) An evaluation of the producer responsibility organization’s
15 compliance with sections 1 to 43 of this 2021 Act and, if necessary,
16 actions that will be taken to achieve compliance;

17 “(w) A report by an independent certified public accountant, re-
18 tained by the producer responsibility organization at the
19 organization’s expense, on the accountant’s audit of the organization’s
20 financial statements;

21 “(x) The results of any nonfinancial audits or assessments measur-
22 ing performance or outcomes;

23 “(y) A description of activities undertaken by the producer respon-
24 sibility organization that relate to the educational resources and pro-
25 motional campaigns described in section 14 of this 2021 Act; and

26 “(z) Any other information required by the department.

27 “(3)(a) A producer responsibility organization shall include in a re-
28 port submitted under this section a confidential addendum containing
29 information on the fees paid to the producer responsibility organiza-
30 tion by individual members and information that can be used to cal-

1 culate the market share of individual members in accordance with
2 rules adopted by the commission under section 4 of this 2021 Act. In-
3 formation included in the confidential addendum is not subject to
4 public disclosure under ORS 192.311 to 192.478, except that the depart-
5 ment may disclose summarized information or aggregated data if the
6 information or data do not directly or indirectly identify the confi-
7 dential information.

8 “(b) The report must also aggregate and summarize the information
9 described in paragraph (a) of this subsection in a manner that does
10 not directly or indirectly identify the confidential information.

11 “(4) The department shall review reports submitted under this sec-
12 tion and solicit feedback on each report from the Oregon Recycling
13 System Advisory Council. The department shall make each report
14 available for public comment for a period of no less than 30 days. The
15 department shall submit the comments of the department, the council
16 and the public to the producer responsibility organization. The de-
17 partment shall approve reports that meet the requirements of this
18 section.

19 “(5) If the department does not approve a report under subsection
20 (4) of this section, the department must provide the producer respon-
21 sibility organization with written notice of revisions necessary for ap-
22 proval and the timeline for resubmittal. If the department does not
23 approve the resubmittal, the department may bring an enforcement
24 action for a violation of this subsection.

25 “(6) No later than 45 days after the end of each calendar quarter,
26 a producer responsibility organization shall provide a materials dispo-
27 sition report to the department describing the final disposition during
28 that calendar quarter of all materials for which the organization is
29 responsible. The report required under this subsection must include:

30 “(a) The final end markets of the materials;

1 **“(b) The location of all facilities used to process the materials; and**
2 **“(c) The amount of materials processed and the final disposition of**
3 **all materials, including materials that were not used by the end mar-**
4 **kets.**

5 **“SECTION 13. Compensation to local governments. (1) A producer**
6 **responsibility organization shall, upon request, fund or reimburse the**
7 **eligible expenses of a local government or the local government’s ser-**
8 **vice provider for eligible costs as provided in this section.**

9 **“(2)(a) The costs of transferring covered products from an aggre-**
10 **gation point to a commingled recycling processing facility or a re-**
11 **sponsible end market, including the cost to compact, load and**
12 **transport covered products, are eligible costs for funding or re-**
13 **imbursement by a producer responsibility organization.**

14 **“(b) Eligible costs under this subsection do not include costs for:**

15 **“(A) The transport of covered products directly from a generator**
16 **to a processing facility or an end market;**

17 **“(B) The transport of covered products from a depot if the depot is**
18 **not designated by a local government as part of its recycling program;**
19 **and**

20 **“(C) The proportion of a shipment of recyclable material that is not**
21 **covered products.**

22 **“(c) A producer responsibility organization shall develop methods**
23 **for determining reimbursement amounts under this subsection.**
24 **Methods may include payments based on zones and must account for**
25 **the for distance to an appropriate recycling processing facility or re-**
26 **sponsible end market that has capacity to process or recycle the ma-**
27 **terial and other factors that could affect transportation costs.**

28 **“(3) The costs of periodically evaluating the quality and contam-**
29 **ination of collected materials as required by section 28 of this 2021 Act,**
30 **if the evaluation occurs at a location other than a commingled recy-**

1 **cling processing facility, are eligible costs for funding or reimburse-**
2 **ment by a producer responsibility organization.**

3 **“(4)(a) The costs of contamination reduction programming for res-**
4 **idential and commercial customers required by section 28 of this 2021**
5 **Act are eligible costs for funding or reimbursement by a producer re-**
6 **sponsibility organization.**

7 **“(b) The Environmental Quality Commission shall establish by rule**
8 **methods for determining funding or reimbursement amounts under**
9 **this subsection, which may include reimbursement on a per capita or**
10 **per vehicle or similar basis.**

11 **“(5) The costs of upgrading or establishing recycling at multifamily**
12 **facilities to meet the requirements of ORS 90.318 and recommendations**
13 **of the study under section 30 of this 2021 Act are eligible costs for**
14 **funding or reimbursement by a producer responsibility organization.**

15 **“(a) A producer responsibility organization shall work with local**
16 **governments, collection service providers and other affected parties**
17 **as provided in this subsection to provide recycling service to multi-**
18 **family properties that do not receive recycling service or that do not**
19 **meet standards for adequate recycling service.**

20 **“(b) Subject to approval by the local government in consultation**
21 **with the local collection service provider, a producer responsibility**
22 **organization may directly fund or reimburse the property owner or**
23 **manager of multifamily housing properties for site improvements.**

24 **“(c) The commission shall adopt by rule standards for:**

25 **“(A) Eligible costs under this subsection, including site preparation,**
26 **construction of recycling enclosures, containers, signage, initial edu-**
27 **cation and promotion materials; and**

28 **“(B) Direct funding or reimbursement of eligible costs by the pro-**
29 **ducer responsibility organization.**

30 **“(d) A local government, local government’s service provider or**

1 multifamily property owner or manager that has received funds for
2 expansion or improvements to recycling collection under this sub-
3 section shall report to the producer responsibility organization when
4 the expansion or improvements have been fully implemented. A local
5 government, local government's service provider or multifamily prop-
6 erty owner or manager must also report the status of implementation
7 to the producer responsibility organization on an annual basis for any
8 funded collection program that has not been fully implemented so that
9 the producer responsibility organization may include that information
10 in the annual report required under section 12 of this 2021 Act.

11 “(6) Costs associated with the expansion and provision of recycling
12 collection services for covered products as provided in this subsection
13 are eligible costs for funding or reimbursement by a producer respon-
14 sibility organization.

15 “(a) A local government that commits to expanding recycling op-
16 portunities using specified collection methods is eligible for funding
17 or reimbursements under this subsection. A producer responsibility
18 organization shall work with local governments to determine the ser-
19 vices the local government is requesting and the schedule by which the
20 new program will be implemented, and shall provide funding for the
21 new programs in advance of or concurrent with implementation.

22 “(b) A producer responsibility organization shall provide funding for
23 activities under this subsection for the duration of the organization's
24 producer responsibility program plan.

25 “(c) A producer responsibility organization shall establish:

26 “(A) A schedule for implementing collection program expansions
27 and improvements throughout this state;

28 “(B) A method for determining funding or reimbursement amounts
29 under this subsection, consistent with rules adopted by the commis-
30 sion by rule; and

1 **“(C) The total amount of funds that will be made available to local**
2 **governments under this subsection each year.**

3 **“(d) Eligible costs under this subsection include:**

4 **“(A) For on-route programs, start-up costs, including but not lim-**
5 **ited to trucks, containers, promotional literature and, if necessary and**
6 **none other is available, a transfer facility for reloading recyclables,**
7 **including any compaction equipment necessary for the transfer facil-**
8 **ity;**

9 **“(B) For depots, containers, on-site monitoring equipment, site**
10 **preparation or other start-up costs and operational costs, including**
11 **staffing; and**

12 **“(C) Other similar expenses as determined by the commission by**
13 **rule.**

14 **“(7) The costs of complying with section 21 of this 2021 Act, to the**
15 **extent that the use of post-consumer recycled material is more ex-**
16 **pensive than the lowest price alternative, are eligible costs for funding**
17 **or reimbursement by a producer responsibility organization.**

18 **“(8) The costs associated with other recycling system improvements**
19 **for covered products as determined by the commission by rule are el-**
20 **igible costs for funding or reimbursement by a producer responsibility**
21 **organization.**

22 **“(9) The Department of Environmental Quality shall conduct a**
23 **statewide needs assessment in partnership with local governments and**
24 **collection service providers to determine local interest in expanding**
25 **on-route collection and recycling depots in areas currently not served**
26 **with those collection opportunities, provided that funds are made**
27 **available to the local programs for expansion. The department shall**
28 **periodically repeat the assessment and may conform the timing of the**
29 **assessment to coincide with the schedule for producer responsibility**
30 **organizations to submit new producer responsibility program plans.**

1 “(10) A local government or local government’s service provider
2 requesting reimbursement under this section shall submit an ac-
3 counting of its costs to a producer responsibility organization.

4 “(11) A producer responsibility organization shall remit payment for
5 expenses under this section to a local government or the local
6 government’s service provider or other person authorized by the local
7 government to receive payment.

8 “(12)(a) The department may audit the cost accounting and re-
9 imbursement request records of a producer responsibility organization,
10 a local government or the local government’s service provider that
11 receives payment under this section.

12 “(b) The department shall require a local government that receives
13 advance funding under this subsection and does not use the moneys
14 for the purposes for which the funding was provided to return the
15 funding to the producer responsibility organization, according to
16 standards established by the commission by rule.

17 “(13) Local governments shall notify the department of service
18 providers that are authorized to receive funding or reimbursement di-
19 rectly, as described in this section, from producer responsibility or-
20 ganizations in the periodic report submitted according to the
21 requirements of ORS 459A.050.

22 “SECTION 14. Development of educational resources. (1) A producer
23 responsibility organization, in consultation with the Oregon Recycling
24 System Advisory Council, shall develop educational resources and
25 promotional campaigns to promote the uniform statewide collection
26 list. Resources and campaigns developed under this section must in-
27 clude, but need not be limited to:

28 “(a) A description of materials identified for recycling as described
29 in section 22 of this 2021 Act;

30 “(b) Techniques to properly prepare materials for recycling;

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

3 “(d) Container signs or decals.

4 “(2) A producer responsibility organization must provide opportu-
5 nities for local governments to review and comment on draft materials
6 developed under this section.

7 “(3) Educational resources and campaigns developed under this
8 section must be:

9 “(a) Culturally responsive to diverse audiences across this state,
10 including people who speak languages other than English and people
11 with disabilities;

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

13 “(c) Accessed easily and at no cost to local governments and users
14 of the recycling system.

15 “(4) A producer responsibility organization shall make the educa-
16 tional resources developed under this section available in a form that
17 allows each local government or the local government’s service pro-
18 viders to customize the resources to reflect local conditions.

19 “(5) When reviewing and commenting on a producer responsibility
20 organization’s draft materials under subsection (2) of this section, a
21 local government must take responsibility to ensure that the educa-
22 tional resources and campaigns being developed by the producer re-
23 sponsibility organization meet the needs of diverse audiences within
24 the local government’s community.

25 “(6) A local government that provides the opportunity to recycle
26 or the local government’s service provider shall utilize and distribute
27 educational resources developed under this section. A local govern-
28 ment or the local government’s service provider may incorporate the
29 educational resources developed under this section into an existing
30 education program developed to satisfy the requirements of ORS

1 459A.007 and 459A.008.

2 “(7) A producer responsibility organization shall coordinate and
3 fund the distribution of statewide promotional campaigns developed
4 under this section at least once per calendar year through media
5 channels that may include, but need not be limited to, print publica-
6 tions, radio, television, the internet and online streaming services.

7 “(8)(a) Except as provided in paragraph (b) of this subsection, edu-
8 cational resources and campaigns developed under this section must
9 be reviewed by the council and approved by the Department of Envi-
10 ronmental Quality before public distribution.

11 “(b) Changes or alterations to educational resources and campaigns
12 previously approved by the department that do not materially affect
13 the substance of the information conveyed do not require review or
14 approval under this subsection.

15 “(9) Educational resources developed under this section must be
16 updated no later than four months following any subsequent changes
17 made by the department to the uniform statewide collection list.

18 “SECTION 15. Other duties of producer responsibility organization.

19 (1) A producer responsibility organization must provide for the col-
20 lection and responsible recycling of covered products identified by the
21 Environmental Quality Commission under section 22 (1)(b) of this 2021
22 Act, in a way that meets collection targets, convenience standards and
23 performance standards established under section 22 of this 2021 Act,
24 by:

25 “(a) Where possible, first contracting with existing recycling depots
26 or drop off centers to provide for the collection of the covered product;

27 “(b) Establishing and operating other drop off centers for the cov-
28 ered product;

29 “(c) Establishing and operating collection events for the covered
30 product; or

1 “(d) Making other arrangements for collection of the covered prod-
2 uct as described in a producer responsibility program plan.

3 “(2) A producer responsibility organization shall ensure that cov-
4 ered products collected in this state for the purpose of recovery and
5 described in section 4 (4) of this 2021 Act will be:

6 “(a) Delivered to responsible end markets;

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

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

11 “(3) A producer responsibility organization may not take physical
12 possession of covered products from a processor for transport to a re-
13 sponsible end market without the consent of the processor.

14 “SECTION 16. Litter and marine debris cleanup and prevention
15 program. (1) A producer responsibility organization shall establish and
16 implement a program to clean up and prevent litter and marine debris.
17 A producer responsibility organization’s litter prevention program
18 shall provide grants or direct payments to eligible entities to carry out
19 litter and marine debris cleanup. Entities eligible for a grant include,
20 but are not limited to:

21 “(a) Public bodies as defined in ORS 174.109;

22 “(b) Tribal governments; and

23 “(c) Nonprofit organizations.

24 “(2) In aggregate, producer responsibility organizations shall expend
25 in Oregon a minimum of \$10 million per year for grants, direct pay-
26 ments and research, including research on litter and marine debris
27 composition and control.

28 “(3) A producer responsibility organization must consider the needs
29 of economically distressed or underserved communities when provid-
30 ing grants to an eligible entity.

1 **“(4)(a) Expenditures under subsection (2) of this section:**
2 **“(A) Must be prioritized according to rules adopted by the Envi-**
3 **ronmental Quality Commission;**
4 **“(B) Must be limited to activities related to covered products; and**
5 **“(C) May not be for:**
6 **“(i) Street sweeping;**
7 **“(ii) Major dumpsite cleanup; or**
8 **“(iii) Cleanup of homeless camps, except to the extent that the**
9 **cleanup involves covered products that have escaped the footprint of**
10 **the site.**

11 **“(b) The expenditures described in subsection (2) of this section are**
12 **in addition to any costs to a producer responsibility organization for**
13 **administration of the grants, payments or research.**

14 **“(5) Beginning July 1, 2030, the commission shall annually adjust**
15 **the minimum expenditure amount specified in subsection (2) of this**
16 **section by multiplying the amount by the percentage change in the**
17 **monthly averaged Consumer Price Index for All Urban Consumers,**
18 **West Region (All Items), as published by the Bureau of Labor Statis-**
19 **tics of the United States Department of Labor, for the 12 consecutive**
20 **months ending on the immediately preceding June 30 compared to the**
21 **monthly averaged Consumer Price Index for All Urban Consumers,**
22 **West Region (All Items), for the 12 consecutive months ending on June**
23 **30, 2029.**

24
25 **“(Oregon Recycling System Advisory Council)**

26
27 **“SECTION 17. Oregon Recycling System Advisory Council estab-**
28 **lished. (1) The Oregon Recycling System Advisory Council is estab-**
29 **lished.**

30 **“(2)(a) The council consists of 15 members appointed by the Gover-**

1 **nor as follows:**

2 **“(A) Four representatives of local governments;**

3 **“(B) Two representatives of community-based organizations repre-**
4 **senting the interests of historically underserved groups;**

5 **“(C) One owner or operator of a small business that is not eligible**
6 **for representation under subparagraphs (E) or (F) of this paragraph;**

7 **“(D) Two representatives of environmental nonprofit organizations;**

8 **“(E) Four representatives of the recycling industry, including col-**
9 **lectors, processors or material end users; and**

10 **“(F) Two representatives of producers of covered products that be-**
11 **long to a producer responsibility organization and represent different**
12 **industries.**

13 **“(b) The Governor may appoint a representative of a producer re-**
14 **sponsibility organization to serve as a member described in paragraph**
15 **(a)(E) of this subsection.**

16 **“(c) The Governor shall appoint members that reflect the ge-**
17 **ographic diversity of this state and the interests of both large and**
18 **small communities.**

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

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

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

27 **“(4) A majority of the members of the council constitutes a quo-**
28 **rum.**

29 **“(5) The council shall elect one of its members to serve as chair-**
30 **person and another to serve as vice chairperson, for the terms and**

1 with the duties and powers necessary for the performance of the
2 functions of such offices as the council determines. The chairperson
3 and vice chairperson may not both be members appointed under the
4 same subparagraph of subsection (2)(a)(A) to (E) of this section.

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

10 “(7) The Department of Environmental Quality shall provide ad-
11 ministrative and staff support and facilities as necessary for the
12 council to carry out the duties of the council.

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

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

20 **“SECTION 18. Duties of council. (1) The Oregon Recycling System**
21 **Advisory Council shall:**

22 **“(a) Review activities that affect Oregon’s recycling system;**

23 **“(b) Advise the Department of Environmental Quality and producer**
24 **responsibility organizations on issues relating to the implementation**
25 **of sections 1 to 43 of this 2021 Act;**

26 **“(c) Review producer responsibility program plans submitted under**
27 **section 6 of this 2021 Act, plan amendments submitted under section**
28 **10 of this 2021 Act and program reports submitted under section 12 of**
29 **this 2021 Act;**

30 **“(d) Make recommendations to the department and producer re-**

1 **sponsibility organizations related to the establishment and mainte-**
2 **nance of the list of specifically identified materials; and**

3 **“(e) Make written recommendations to the department and pro-**
4 **ducer responsibility organizations on matters that the council deter-**
5 **mines are beneficial to the public interest, including:**

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

9 **“(i) Producer fee structures described in section 11 of this 2021 Act;**

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

11 **“(iii) Other aspects of a producer responsibility program intended**
12 **to improve access to recycling, including access for residents of**
13 **multifamily housing.**

14 **“(B) The uniform statewide collection list.**

15 **“(C) The manner in which producer responsibility organization fees**
16 **will be distributed to local governments or local governments’ service**
17 **providers under section 13 of this 2021 Act, including:**

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

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

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

23 **“(E) Compliance with the labeling requirements of section 36 of this**
24 **2021 Act.**

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

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

1 “(4) Within 45 days of receiving written recommendations from the
2 council under subsection (1)(d) of this section, a producer responsibil-
3 ity organization must provide a written response to the council, in-
4 cluding reasons why any recommendations were not accepted.

5 “(5) Within 60 days of receipt of written recommendations provided
6 under subsection (1)(d) of this section, the department shall provide a
7 written response to the council, including reasons why any recom-
8 mendations were not accepted.

9
10 “(Responsibilities of Local Governments)
11

12 “SECTION 19. Prohibition on delivery of commingled recyclables to
13 certain facilities. (1) As used in this section, ‘intermediate facility’
14 means a facility that receives commingled recyclables collected by a
15 local government or local government’s service provider as an inter-
16 mediate step prior to delivery to a commingled recycling processing
17 facility.

18 “(2) A local government, the local government’s service provider
19 or an intermediate facility may not deliver to a commingled recycling
20 processing facility commingled recyclables that were collected to pro-
21 vide the opportunity to recycle unless:

22 “(a) At the time the local government, the local government’s agent
23 or the intermediate facility delivered or contracted to deliver or
24 transport materials to the commingled recycling facility:

25 “(A) The processor held a valid permit issued under section 37 of
26 this 2021 Act;

27 “(B) The processor held a valid certificate issued under section 38
28 of this 2021 Act; or

29 “(C) The processor certifies that it meets the requirements of sec-
30 tion 37 or 38 of this 2021 Act, even though the processor does not hold

1 a permit or certificate.

2 “(b) Within six months after the Department of Environmental
3 Quality completes a report under section 29 of this 2021 Act, the
4 processor has taken steps to implement any recommendations of the
5 report related to providing opportunities in the recycling industry for
6 women and minority individuals as defined in ORS 200.005 and the re-
7 moval of barriers to company ownership for women and minority in-
8 dividuals.

9 “**SECTION 19a.** Section 19 of this 2021 Act is amended to read: (1) As
10 used in this section, ‘intermediate facility’ means a facility that receives
11 commingled recyclables collected by a local government or local
12 government’s service provider as an intermediate step prior to delivery to a
13 commingled recycling processing facility.

14 “(2) A local government, the local government’s service provider or an
15 intermediate facility may not deliver to a commingled recycling processing
16 facility commingled recyclables that were collected to provide the opportu-
17 nity to recycle unless:

18 “(a) At the time the local government, the local government’s agent or
19 the intermediate facility delivered or contracted to deliver or transport ma-
20 terials to the commingled recycling facility:

21 “(A) The processor held a valid permit issued under section 37 of this 2021
22 Act;

23 “(B) The processor held a valid certificate issued under section 38 of this
24 2021 Act; or

25 “(C) The processor certifies that it meets the requirements of section 37
26 or 38 of this 2021 Act, even though the processor does not hold a permit or
27 certificate.

28 “(b) The processor ensures the health, safety and wellness of
29 workers at the facility regardless of whether the workers are employ-
30 ees, independent contractors or employees of another business.

1 **“(c) The processor provides workers at the facility with a living**
2 **wage and supportive benefits.**

3 **“[(b)] (d) Within six months after the Department of Environmental**
4 **Quality completes a report under section 29 of this 2021 Act, the processor**
5 **has taken steps to implement any recommendations of the report related to**
6 **providing opportunities in the recycling industry for women and minority**
7 **individuals as defined in ORS 200.005 and the removal of barriers to company**
8 **ownership for women and minority individuals.**

9 **“SECTION 20. Other duties of local governments. (1) A local gov-**
10 **ernment providing the opportunity to recycle must, for the recycling**
11 **collection of materials identified on the uniform statewide collection**
12 **list at multifamily properties and nonresidential properties with mul-**
13 **tiiple tenants:**

14 **“(a) Ensure adequate space for collection.**

15 **“(b) Demonstrate a plan to ensure adequate space and access for**
16 **new construction and significant remodels.**

17 **“(c) Update or establish service standards for service providers to**
18 **provide adequate service volume or collection frequency, or a combi-**
19 **nation of both.**

20 **“(d) Ensure that container placement is accessible to residents, in-**
21 **cluding children and individuals who use a wheelchair.**

22 **“(e) Report on activities to meet the requirements of this subsection**
23 **in the periodic report submitted according to the requirements of ORS**
24 **459A.050.**

25 **“(2) The Environmental Quality Commission shall establish by rule**
26 **the format and process for developing a plan under subsection (1)(b)**
27 **of this section.**

28 **“SECTION 21. Roll carts. A local government shall ensure that roll**
29 **carts, bins and containers purchased by the local government’s service**
30 **providers are manufactured from at least 10 percent post-consumer**

1 recycled material and are certified by an independent verification
2 standard, such as the Postconsumer Resin Certification Program es-
3 tablished by the Association of Plastic Recyclers.

4
5 “(Responsibilities of the Environmental Quality Commission
6 and the Department of Environmental Quality)
7

8 **“SECTION 22. Uniform statewide collection list and specifically**
9 **identified materials. (1) The Environmental Quality Commission, in**
10 **consultation with producer responsibility organizations and the**
11 **Oregon Recycling System Advisory Council, shall by rule identify ma-**
12 **terials that are suitable for recycling collection in this state and the**
13 **methods for collection of those materials. Rules adopted under this**
14 **subsection must distinguish between:**

15 “(a) Materials collected to provide the opportunity to recycle; and

16 “(b) Covered products of which a producer responsibility organiza-
17 tion must provide for the collection through depot or mobile collection
18 service.

19 “(2) When identifying materials and collection methods under sub-
20 section (1)(a) of this section, the commission may allow for the same
21 material to be collected via on-route collection or at recycling depots
22 in different geographic areas.

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

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

29 “(b) Environmental health and safety considerations;

30 “(c) The anticipated yield loss for the material during the recycling

1 **process;**

2 **“(d) The material’s compatibility with existing recycling**
3 **infrastructure;**

4 **“(e) The amount of the material available;**

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

6 **“(g) Contamination;**

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

9 **“(i) Economic factors;**

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

11 **“(k) The policy expressed in ORS 459.015.**

12 **“(4) The Department of Environmental Quality shall establish a**
13 **uniform statewide collection list. The list established under this sub-**
14 **section must include:**

15 **“(a) The materials identified by the commission under subsection**
16 **(1)(a) of this section and the collection methods for those materials;**
17 **and**

18 **“(b) Covered products and the collection methods for those covered**
19 **products, if any, proposed for recycling collection by a producer re-**
20 **sponsibility organization in a producer responsibility program plan or**
21 **plan amendment and approved by the department under section 7 of**
22 **this 2021 Act.**

23 **“(5) Except as provided in subsection (6) of this section, a material**
24 **may not be collected as part of a commingled recycling program unless**
25 **the material is identified for collection as part of a commingled recy-**
26 **cling program on the uniform statewide collection list.**

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

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

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

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

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

7 **“SECTION 23. Specifically identified materials. (1) The Department**
8 **of Environmental Quality, in consultation with producer responsibility**
9 **organizations and the Oregon Recycling System Advisory Council,**
10 **shall establish and maintain a list of specifically identified materials.**

11 **“(2) In determining whether a material or a covered product, is a**
12 **specifically identified material, the department shall consider criteria**
13 **that include, but need not be limited to:**

14 **“(a) Whether processing equipment improvements are needed to**
15 **sort the material;**

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

17 **“(c) Economic factors affecting the value of the material; and**

18 **“(d) Whether the inclusion of the material or covered product in**
19 **recycling collection programs could cause an increase in costs.**

20 **“SECTION 24. Contamination management fee. (1) The Environ-**
21 **mental Quality Commission shall by rule adopt and periodically revise**
22 **a contamination management fee to be paid by producer responsibility**
23 **organizations to commingled recycling processing facilities to com-**
24 **pensate the facilities for the costs of removing and disposing of cov-**
25 **ered products that are contaminants. The amount of the fee shall be**
26 **based on the result of the study conducted under subsection (2) of this**
27 **section. Rules adopted under this section must:**

28 **“(a) Provide that payment of the fee may not be required more**
29 **frequently than once per month;**

30 **“(b) Provide that the fee may not be based on commingled recycling**

1 **originating outside of Oregon; and**

2 **“(c) Establish a review process to ensure that the fee is appropri-**
3 **ately charged.**

4 **“(2) The Department of Environmental Quality shall contract with**
5 **an independent organization to conduct the study under this sub-**
6 **section. The study must:**

7 **“(a) Estimate the cost to commingled recycling processing facilities**
8 **of removing and disposing of covered products that are contaminants,**
9 **reported as the cost per ton of covered products; and**

10 **“(b) Estimate the costs to commingled recycling processing facili-**
11 **ties of removing and disposing of all contaminants, reported as the**
12 **cost per ton of all contaminants.**

13 **“(3) A commingled recycling processing facility that does not par-**
14 **ticipate in the review process described in subsection (1) of this section**
15 **or the study described in subsection (2) of this section is not eligible**
16 **to receive a contamination management fee.**

17 **“(4) Information provided to any person during a review described**
18 **in subsection (1) of this section or the study described in subsection**
19 **(2) of this section may be labeled confidential by a commingled recy-**
20 **cling processing facility. Information labeled confidential is not sub-**
21 **ject to public disclosure under ORS 192.311 to 192.478, except that**
22 **information may be disclosed as summarized or aggregated data if**
23 **doing so does not identify the facility.**

24 **“(5) The department shall review the contamination management**
25 **fee at least once every five years. The department may not review the**
26 **contamination management fee more frequently than once per year.**

27 **“SECTION 25. Processor commodity risk fee. (1) As used in this**
28 **section:**

29 **“(a) ‘Anticipated program cost’ means all additional costs related**
30 **to any new requirements of this 2021 Act that are anticipated prior to**

1 the next review of the processor commodity risk fee under subsection
2 (6) of this section.

3 “(b) ‘Average commodity value’ means the average revenue paid by
4 brokers or end markets, after processing by a commingled recycling
5 processing facility, for a composite ton of commingled material col-
6 lected for recycling in Oregon.

7 “(c)(A) ‘Eligible processing cost’ means all costs associated with
8 owning and operating a commingled recycling processing facility as
9 determined by the study conducted under subsection (3) of this sec-
10 tion, including but not limited to sorting, handling, storing, disposal,
11 marketing and shipping, administration, rent, fees, depreciation, fixed
12 costs, profit, the target price paid for commingled recycling collected
13 from Oregon as described in subsection (2)(d) of this section and an-
14 ticipated program costs.

15 “(B) ‘Eligible processing cost’ does not include revenue from the
16 sale of recyclables and any costs that are reimbursed by producer re-
17 sponsibility organizations or other parties.

18 “(2) The Environmental Quality Commission shall by rule adopt and
19 periodically revise a processor commodity risk fee to be paid by pro-
20 ducer responsibility organizations to commingled recycling processing
21 facilities to ensure that producers share in the costs of fully processing
22 commingled recyclables from Oregon. The processor commodity risk
23 fee shall be based on the eligible processing costs of the facility less
24 the average commodity value of recyclable materials processed by the
25 facility. Rules adopted under this section must:

26 “(a) Provide that payment of the fee may not be required more
27 frequently than once per month;

28 “(b) Provide that the fee may not be based on commingled recycling
29 originating outside of Oregon;

30 “(c) Establish a review process to ensure that the fee is appropri-

1 ately charged;

2 “(d) Provide that the average compensation paid by commingled
3 recycling processing facilities for commingled recyclables collected
4 from Oregon shall equal or exceed a target price of \$10 per ton, ex-
5 pressed on the basis of compensation per ton of delivered material;

6 “(e) Provide that the fee is to be paid on the basis of recyclable
7 material received by or sold from a commingled recycling processing
8 facility;

9 “(f) Ensure that materials handled by more than one commingled
10 recycling processing facility are not double counted for purposes of
11 calculating the fee;

12 “(g) Ensure that local governments and ratepayers are protected
13 from cost increases associated with the volatility of commodity mar-
14 kets; and

15 “(h) Establish methods to determine and periodically update, but
16 no more frequently than once per month, the average commodity
17 value per ton of commingled materials collected from single-family
18 residences in Oregon and from all other sources in Oregon. The
19 methods developed under this paragraph must include:

20 “(A) The average composition of materials by percentage in each
21 mix, multiplied by published market values;

22 “(B) The sources of the published market values used; and

23 “(C) Any adjustments to published market values for each com-
24 modity to reflect conditions in Oregon.

25 “(3) Subject to subsection (6) of this section, the Department of
26 Environmental Quality shall contract with an independent organiza-
27 tion to conduct the study under this subsection. The study must:

28 “(a) Estimate the average eligible processing cost at commingled
29 recycling facilities that process commingled recycling generated in
30 Oregon; and

1 **“(b) Report the costs on the basis of tons of commingled recycling**
2 **received and materials shipped to end markets.**

3 **“(4) A commingled recycling facility that does not participate in the**
4 **review process described in subsection (2) of this section or the study**
5 **described in subsection (3) of this section is not eligible to receive a**
6 **processor commodity risk fee.**

7 **“(5) Information provided to any person during a review described**
8 **in subsection (2) of this section or the study described in subsection**
9 **(3) of this section may be labeled confidential by a commingled recy-**
10 **cling processing facility. Information labeled confidential is not sub-**
11 **ject to public disclosure under ORS 192.311 to 192.478, except that**
12 **information may be disclosed as summarized or aggregated data if**
13 **doing so does not identify the facility.**

14 **“(6) The department shall contract for the study under subsection**
15 **(3) of this section to be performed at least once every five years. The**
16 **department may contract for the study under subsection (3) of this**
17 **section to be performed no more than once per year. If a study under**
18 **subsection (3) of this section demonstrates that the average per-ton**
19 **eligible processing cost has changed by more than 10 percent since the**
20 **commission last established the processor commodity risk fee, the**
21 **commission shall by rule revise the processor commodity risk fee.**

22 **“SECTION 26. Compost facility contamination management fee. (1)**
23 **The Environmental Quality Commission shall by rule adopt and peri-**
24 **odically revise a compost facility contamination management fee to**
25 **be paid by producer responsibility organizations to compost facilities**
26 **to compensate facilities for the costs of removing and disposing of**
27 **covered products that are contaminants. The amount of the fee shall**
28 **be based on the result of the study conducted under subsection (2) of**
29 **this section. Rules adopted under this section must:**

30 **“(a) Provide that payment of the fee may not be required more**

1 frequently than once per month;

2 “(b) Provide that the fee may not be based on materials originating
3 outside of Oregon; and

4 “(c) Establish a review process to ensure that the fee is appropri-
5 ately charged.

6 “(2) The Department of Environmental Quality shall contract with
7 an independent organization to conduct the study under this sub-
8 section. The study must:

9 “(a) Estimate the cost to compost facilities of removing and dis-
10 posing of covered products that are contaminants, reported as the cost
11 per ton of covered products; and

12 “(b) Estimate the costs to compost facilities of removing and dis-
13 posing of all contaminants, reported as the cost per ton of all con-
14 taminants.

15 “(3) A compost facility that does not participate in the review pro-
16 cess described in subsection (1) of this section or the study described
17 in subsection (2) of this section is not eligible to receive a compost
18 facility contamination management fee.

19 “(4) Information provided to any person during a review described
20 in subsection (1) of this section or the study described in subsection
21 (2) of this section may be labeled confidential by a compost facility.
22 Information labeled confidential is not subject to public disclosure
23 under ORS 192.311 to 192.478, except that information may be disclosed
24 as summarized or aggregated data if doing so does not identify the
25 facility.

26 “(5) The department shall review the compost facility contam-
27 ination management fee at least once every five years. The department
28 may not review the compost facility contamination management fee
29 more frequently than once per year.

30 “SECTION 27. Recycling rate of plastic. (1) As used in this section:

1 “(a)(A) ‘Plastic’ means a material composed of synthetic polymers
2 such as polyethylene, polypropylene, polystyrene, polylactic acid and
3 other similar polymers.

4 “(B) ‘Plastic’ does not include materials commonly referred to as
5 rubber or materials that are naturally produced polymers, such as
6 proteins or starches.

7 “(b) ‘Total plastic recycled’ does not include plastic that is
8 composted, burned for energy recovery or used to make a fuel product.

9 “(2)(a) It is the goal of the State of Oregon that the statewide re-
10 cycling rate for plastic be at least 25 percent for calendar year 2028 and
11 each subsequent year unless modified by the Environmental Quality
12 Commission by rule.

13 “(b) In order to accommodate changes to conditions and encourage
14 environmentally protective recycling of plastic, the commission by
15 rule, on or after January 1, 2029, may increase the statewide plastic
16 recycling goal to no more than 35 percent.

17 “(c) The recycling rate established under this subsection is separate
18 from the recovery rates calculated under ORS 459A.010 and the recy-
19 cling rate calculated under ORS 459A.657.

20 “(3) The Department of Environmental Quality shall annually de-
21 termine whether the statewide plastic recycling goal established under
22 subsection (2) of this section has been met in the previous calendar
23 year. The department may require a producer responsibility organiza-
24 tion to submit aggregated information necessary for the department
25 to make the determination under this subsection.

26 “(4) If the department determines that the statewide recycling goal
27 for the previous calendar year has not been met, each producer re-
28 sponsibility organization shall, in the manner provided in section 10
29 of this 2021 Act, amend an existing producer responsibility program
30 plan or submit a new producer responsibility program plan to address

1 the failure to meet the statewide plastic recycling goal.

2 “(5) The recycling rate of plastic is calculated by dividing the total
3 plastic waste generated and recycled in this state by the total plastic
4 waste generated in this state using the following data, unless other-
5 wise specified by rule by the commission:

6 “(a) Data on recycling from the surveys and reports specified in
7 ORS 459A.050;

8 “(b) Data from the waste composition studies specified in ORS
9 459A.035, combined with data on the total amount of solid waste dis-
10 posed as specified in ORS 459A.010 (3)(a);

11 “(c) Information submitted by a producer responsibility organiza-
12 tion under subsection 3 of this section; and

13 “(d) Other information made available to the department to esti-
14 mate changes in the generation of plastic waste in years between the
15 years when waste composition studies are conducted.

16 “(6) For purposes of determining the recycling rate of plastic,
17 “plastic”:

18 “(a) Includes post-consumer products and packaging made entirely
19 of plastic or that contain small amounts of easily removed nonplastic
20 items, such as metal lids or metal handles on plastic buckets; and

21 “(b) Does not include plastic in multimaterial items such as elec-
22 tronics, automobiles, appliances or mixed-material toys.

23 “SECTION 28. Contamination reduction. (1) The Department of
24 Environmental Quality shall:

25 “(a) Establish statewide recycling contamination reduction goals.

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

28 “(c) Establish and maintain a list of approved contamination re-
29 duction program elements, including:

30 “(A) Customer-facing contamination reduction materials and

1 **methods that are responsive to the needs of diverse populations;**

2 **“(B) Standards for providing feedback to generators that contribute**
3 **to contamination that is responsive to the needs of diverse popu-**
4 **lations; and**

5 **“(C) Standards for providing financial or service consequences to**
6 **generators that are significant and repeated sources of contamination**
7 **and that continue to contaminate separated recyclables after being**
8 **subject to elements described in subparagraphs (A) and (B) of this**
9 **paragraph. Consequences must take into account the individual cir-**
10 **cumstances of the generator, including language barriers and income.**

11 **“(d) Periodically review and summarize statewide information on**
12 **contamination at the point of collection, using data provided in ac-**
13 **cordance with section 39 of this 2021 Act, and revise the statewide re-**
14 **cycling contamination reduction goals, as appropriate.**

15 **“(2) A local government described in ORS 459A.007 (3) or a local**
16 **government’s service provider that provides for the collection of**
17 **source separated recyclables pursuant to ORS 459.250 or 459A.005 must**
18 **establish and implement a program to reduce contamination that:**

19 **“(a) Includes one or more local recycling contamination reduction**
20 **goals that are consistent with the statewide goals established in sub-**
21 **section (1) of this section.**

22 **“(b) Causes collected source separated recyclables to undergo peri-**
23 **odic evaluation of collected material quality and contamination, in**
24 **accordance with forms and procedures established by the department**
25 **under section 39 of this 2021 Act.**

26 **“(c) Includes:**

27 **“(A) At least one of each of the program elements described in**
28 **subsection (1)(c)(A) to (C) of this section; or**

29 **“(B) Uses materials or methods that are at least as effective as**
30 **materials or methods approved by the department under subsection**

1 (1)(c) of this section.

2 “(d) Includes, at least once every five years, a process for reviewing,
3 and revising as appropriate, the local goals established in subsection
4 (2)(a) of this section and local elements established in subsection (2)(c)
5 of this section.

6 “SECTION 29. Equity study. (1) The Department of Environmental
7 Quality, in consultation with local governments and the Oregon Re-
8 cycling System Advisory Council, shall conduct a study of equity in
9 Oregon’s recycling system to determine conditions and make recom-
10 mendations, including goals to achieve continuous improvement. The
11 department shall provide public involvement opportunities for under-
12 served communities during the study. The study must include, but
13 need not be limited to:

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

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

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

22 “(d) The sufficiency of recycling education programs relative to
23 desired equity outcomes; and

24 “(e) The availability of opportunities in the recycling system for
25 Oregon and other Pacific Northwest businesses.

26 “(2) A business operating within the recycling system in this state
27 shall, upon request, furnish the department with information neces-
28 sary for the department to meet the requirements of subsection (1)(a)
29 and (b) of this section. Information furnished to the department re-
30 lating to subsection (1)(a) of this section is not subject to public dis-

1 closure under ORS 192.311 to 192.478, except that the department may
2 disclose summarized information or aggregated data if the information
3 or data do not directly or indirectly identify the confidential informa-
4 tion.

5 “(3) The department shall report the results of the study and rec-
6 ommendations required under this section to the Environmental
7 Quality Commission. The commission shall approve or reject the rec-
8 ommendations of the department and provide a copy of the report and
9 approved recommendations to each producer responsibility organiza-
10 tion and make the report publicly available via the department’s
11 website.

12 “(4) The department shall revise the study and report at least once
13 every five years and may conform the timing of the study to coincide
14 with the schedule for producer responsibility organizations to submit
15 new producer responsibility program plans.

16 “(5) No later than one year after receiving a report and recom-
17 mendations from the commission under subsection (3) of this section,
18 a producer responsibility organization shall submit a plan amendment
19 describing to the satisfaction of the department how it will implement
20 changes to address the approved recommendations of the report as
21 they relate to the producer responsibility organization’s specific recy-
22 cling system obligations.

23 **“SECTION 30. Multifamily housing study.** (1) The Department of
24 Environmental Quality, in consultation with the Oregon Recycling
25 System Advisory Council, shall study challenges facing residents of
26 multifamily housing and make recommendations for improvements to
27 allow for effective and equitable recycling opportunities for residents
28 of multifamily housing. The study conducted under this section must
29 include an evaluation of the placement of and quality of spaces pro-
30 vided for recycling containers and recommendations for improving

1 spaces that are determined to be inadequate.

2 “(2) The department must update the study and recommendations
3 required under subsection (1) of this section no less than once every
4 five years and may conform the timing of the study to coincide with
5 the schedule for producer responsibility organizations to submit new
6 producer responsibility program plans.

7 “(3) No later than one year after the date on which the department
8 completes a report submitted under subsection (2) of this section, a
9 producer responsibility organization must submit a new plan or plan
10 amendment that implements the recommendations of the report.

11 **“SECTION 31. Fees. (1) The Department of Environmental Quality**
12 **shall establish the following fees:**

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

15 “(b) A fixed, one-time fee for reviewing a producer responsibility
16 program plan amendment submitted under section 10 of this 2021 Act.

17 “(c)(A) Subject to subparagraph (B) of this paragraph, an annual
18 fee charged to each producer responsibility organization for the pur-
19 pose of paying the costs to the department of administering, imple-
20 menting and enforcing the provisions of sections 1 to 43 of this 2021
21 Act.

22 “(B) The costs to the department for purposes of subparagraph (A)
23 of this paragraph do not include costs to the department for adminis-
24 tering, implementing and enforcing sections 37, 38 and 39 of this 2021
25 Act.

26 “(2) The department shall provide notice to a producer responsibil-
27 ity organization no later than September 1 of each year of the annual
28 fee required under subsection (1)(c) of this section for the upcoming
29 calendar year. Fees collected by the department under this section
30 shall be deposited in the State Treasury to the credit of the Producer

1 Responsibility Fund established under section 34 of this 2021 Act.

2 **“SECTION 32. Waste prevention and reuse. (1) As used in this sec-**
3 **tion, ‘public body’ has the meaning given that term in ORS 174.109.**

4 **“(2) The Department of Environmental Quality shall establish a**
5 **program to reduce the environmental impacts of covered products**
6 **through means other than waste recovery, including waste prevention**
7 **and reuse. The department may enter into agreements with public**
8 **bodies to establish a program to reduce the environmental impacts of**
9 **covered products. The department may provide grants or loans in or-**
10 **der to reduce the environmental impacts of covered products. Entities**
11 **eligible for a grant or loan include, but are not limited to:**

12 **“(a) Public bodies;**

13 **“(b) Tribal governments;**

14 **“(c) Nonprofit organizations; and**

15 **“(d) Private organizations, if the department determines that the**
16 **funds would be used for the public benefit.**

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

20 **“(a) The environmental benefits of the program;**

21 **“(b) The human health benefits of the program;**

22 **“(c) The social and economic benefits of the program;**

23 **“(d) The cost-effectiveness of the program; and**

24 **“(e) The needs of economically distressed or underserved commu-**
25 **nities.**

26 **“(4) In addition to the fees established under section 31 of this 2021**
27 **Act, the Environmental Quality Commission shall establish a waste**
28 **prevention and reuse fee to be paid by producer responsibility organ-**
29 **izations. The fee established under this subsection must be reasonably**
30 **calculated to support the waste prevention and reuse programs estab-**

1 lished under this section. Fees collected under this subsection must
2 be deposited in the Waste Prevention and Reuse Fund established un-
3 der section 35 of this 2021 Act.

4 **SECTION 33. Life cycle evaluation.** The Environmental Quality
5 Commission shall establish by rule standards for the evaluation and
6 disclosure of the environmental impacts of covered products through
7 the life cycle of the products. Rules adopted under this section must:

8 **“(1) Establish procedures and requirements to be used by producers**
9 **when evaluating the life cycle impacts of covered products to obtain**
10 **an incentive under section 11 of this 2021 Act or when required to do**
11 **so under subsection (2) of this section.**

12 **“(2) Require large producers to:**

13 **“(a) Perform an evaluation of the life cycle impacts of covered**
14 **products sold or distributed in or into this state;**

15 **“(b) Provide the results of the evaluation to the Department of**
16 **Environmental Quality; and**

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

19 **SECTION 34. Producer Responsibility Fund.** The Producer Re-
20 sponsibility Fund is established, separate and distinct from the Gen-
21 eral Fund. The Producer Responsibility Fund consists of moneys
22 deposited into the fund under section 31 of this 2021 Act and moneys
23 transferred or appropriated to the fund by the Legislative Assembly.
24 All moneys in the Producer Responsibility Fund are continuously ap-
25 propriated to the Department of Environmental Quality and may be
26 used only to pay the costs of administering, implementing and en-
27 forcing sections 1 to 43 of this 2021 Act.

28 **SECTION 35. Waste Prevention and Reuse Fund.** The Waste Pre-
29 vention and Reuse Fund is established, separate and distinct from the
30 General Fund. The Waste Prevention and Reuse Fund consists of

1 moneys deposited into the fund under section 32 of this 2021 Act and
2 moneys transferred or appropriated to the fund by the Legislative As-
3 sembly. All moneys in the Waste Prevention and Reuse Fund are
4 continuously appropriated to the Department of Environmental Qual-
5 ity and may be used only for the purposes described in section 32 of
6 this 2021 Act.

7 **“SECTION 36. Product labeling.** (1) As used in this section:

8 **“(a) ‘Chasing arrows symbol’ means:**

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

12 **“(B) A substantially similar symbol.**

13 **“(b) ‘Resin identification code’ means a number, letters or a com-**
14 **bination of both used to identify a type of plastic resin used to make**
15 **a plastic product or packaging.**

16 **“(2)(a) A person may not distribute or sell, including by means of**
17 **remote sale, in or into this state any product that makes a deceptive**
18 **or misleading claim about the recyclability of the product or the**
19 **product’s packaging.**

20 **“(b) A product that displays a chasing arrows symbol, a chasing**
21 **arrows symbol surrounding a resin identification code or any other**
22 **symbol or statement indicating the product is recyclable will not be**
23 **considered to make a deceptive or misleading claim about the**
24 **recyclability of the product if:**

25 **“(A) The material of the product or its packaging is identified on**
26 **the uniform statewide collection list as a material that is suitable for**
27 **on-route collection; or**

28 **“(B) The product is labeled in accordance with rules adopted by the**
29 **Environmental Quality Commission under subsection (3) of this sec-**
30 **tion.**

1 **“(3) The commission shall establish by rule labeling standards for**
2 **products that make claims about the recyclability of the product or**
3 **the product’s packaging. Labeling standards established under this**
4 **subsection may require a statement identifying the correct recycling**
5 **method for the material. Labeling standards established under this**
6 **subsection may not require the label to include information that is**
7 **specific or limited to the recycling system in Oregon. Labeling stan-**
8 **dards established under this subsection may not require a standard**
9 **that is prohibited by another state, or prohibit a standard that is re-**
10 **quired by another state, at the time that the rule is adopted.**

11 **“(4) A person may not distribute or sell, including by means of re-**
12 **mote sale, in or into this state any product that is labeled with a word**
13 **or symbol intended to convey that the product is compostable unless**
14 **the product is compostable in this state and the label complies with**
15 **rules adopted by the commission.**

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

20

21 **“(Commingled Recycling Processing Facilities)**

22

23 **“SECTION 37. Permit required. (1) A person may not establish or**
24 **operate a commingled recycling processing facility in this state unless**
25 **the person obtains a disposal site permit issued by the Department of**
26 **Environmental Quality under ORS 459.205.**

27 **“(2) A disposal site permit issued to a commingled recycling pro-**
28 **cessing facility must require the facility to:**

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

1 **“(b) Market materials to responsible end markets;**
2 **“(c) Manage contaminants to avoid impacts on other waste streams**
3 **or facilities;**
4 **“(d) Refrain from creating a public nuisance or health hazard;**
5 **“(e) Limit air or water pollution or other adverse impacts on public**
6 **health or the environment;**
7 **“(f) Evaluate and report on inbound material quality and contam-**
8 **ination, in accordance with forms and procedures established by the**
9 **department in section 39 of this 2021 Act;**
10 **“(g) Accurately report outbound contamination levels; and**
11 **“(h) For all materials held by the processor:**
12 **“(A)(i) Accurately report the final disposition of the materials; or**
13 **“(ii) Certify that the end markets for the materials meet standards**
14 **for environmental and social sustainability established by a program**
15 **approved by the Environmental Quality Commission under subsection**
16 **(3) of this section.**
17 **“(B) Information on the final disposition of materials labeled ‘con-**
18 **fidential’ by the processor is not subject to public disclosure under**
19 **ORS 192.311 to 192.478, except that the department or producer re-**
20 **sponsibility organizations may disclose summarized information or**
21 **aggregated data if the information or data do not identify the confi-**
22 **dential information.**
23 **“(3) The commission shall prescribe by rule the requirements for a**
24 **permit issued under ORS 459.205 and this section. Rules adopted under**
25 **this subsection shall allow for permitted facilities to direct, in re-**
26 **sponse to an emergency failure of critical equipment at their own fa-**
27 **ility, and on a temporary basis, small amounts of unsorted inbound**
28 **materials to other processing facilities for sorting and recycling so**
29 **long as such facilities meet the requirements described in subsection**
30 **(2)(a), (c) and (g) of this section. Rules adopted under this subsection**

1 may include the identification of approved programs for certifying the
2 environmental and social sustainability of end markets.

3 **“SECTION 38. Certification program.** (1) The Department of Envi-
4 ronmental Quality shall establish a program or approve a program
5 established by a third party to certify commingled recycling processing
6 facilities. The department may issue certificates under the program
7 or develop a list of approved contractors to issue certificates.

8 **“(2) A commingled recycling processing facility certified under this**
9 **section must satisfy the requirements of section 37 of this 2021 Act.**

10 **“SECTION 39. Contamination.** (1) The Department of Environ-
11 mental Quality shall establish forms and procedures for commingled
12 recycling processing and reload facilities to evaluate and describe lev-
13 els of inbound contamination.

14 **“(2) Information described in subsection (1) of this section shall be**
15 **provided to the department and local governments or local**
16 **governments’ service providers responsible for collecting the materials**
17 **evaluated.**

18

19 **“(Enforcement)**

20

21 **“SECTION 40. Enforcement and record keeping.** (1) The Department
22 of Environmental Quality shall have the power to enter upon and in-
23 spect, at any reasonable time, any public or private property, premises
24 or place for the purpose of investigating either an actual or suspected
25 violation of sections 1 to 43 of this 2021 Act or rules adopted under
26 sections 1 to 43 of this 2021 Act.

27 **“(2) A producer responsibility organization shall retain all records**
28 **related to the implementation and administration of a producer re-**
29 **sponsibility program for not less than five years and make the records**
30 **available for inspection by the department upon request.**

1 **“(3) In accordance with the applicable provisions of ORS chapter 183**
2 **relating to contested case proceedings, the department may issue an**
3 **order requiring compliance with the provisions of sections 1 to 43 of**
4 **this 2021 Act.**

5 **“(4) In accordance with the applicable provisions of ORS chapter 183**
6 **relating to contested case proceedings, and in accordance with ORS**
7 **468.130 and rules adopted pursuant to ORS 468.130, the department may**
8 **issue civil penalties for violations of the provisions of sections 1 to 43**
9 **of this 2021 Act. All penalties recovered for violations of sections 1 to**
10 **43 of this 2021 Act shall be paid into the State Treasury and credited**
11 **to the General Fund.**

12 **“(5) The department may issue an order under subsection (3) of this**
13 **section to suspend or revoke a producer responsibility program plan**
14 **if the department determines that:**

15 **“(a) A violation or repeated violations of sections 1 to 43 of this 2021**
16 **Act present a risk to the environment or public health; or**

17 **“(b) A violation has had a material impact on the implementation**
18 **and administration of the organization’s producer responsibility pro-**
19 **gram plan.**

20 **“(6) The Department of Justice, at the request of the Department**
21 **of Environmental Quality, may bring an action seeking to prohibit the**
22 **sale of a covered product in or into this state against any producer**
23 **that sells, offers to sell or distributes a covered product in this state:**

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

25 **“(b) In violation of section 36 of this 2021 Act or rules adopted by**
26 **the Environmental Quality Commission pertaining to claims about the**
27 **recyclability or compostability of a product or its packaging.**

28 **“(7) Any person with control of materials collected under sections**
29 **1 to 43 of this 2021 Act shall retain all records related to the person’s**
30 **responsibilities under sections 1 to 43 of this 2021 Act for not less than**

1 five years from the time the record was created and make the records
2 available for inspection by the department upon request.

3 “(8) A person required to retain records under subsection (7) of this
4 section shall make the records available upon request to a producer
5 responsibility organization if necessary to allow the organization to
6 meet its obligations under sections 1 to 43 of this 2021 Act.

7

8 “(Miscellaneous)

9

10 “SECTION 41. Truth in composting. (1) A person that operates or
11 controls a collection program for yard debris or food waste or that
12 operates or controls a compost facility may not promote for accept-
13 ance any material that cannot or will not be effectively composted.

14 “(2) The Department of Environmental Quality, or entities approved
15 by the department, may conduct research or pilot projects to examine
16 the collection and compostability of materials and to identify materi-
17 als that can and cannot be effectively composted. A pilot or research
18 project may not exceed two years in duration.

19 “(3) Nothing in this section prevents a composting facility from
20 accepting materials that are not readily compostable and are inci-
21 dentally collected as part of a collection program.

22 “SECTION 42. Antitrust. The Legislative Assembly declares that the
23 collaboration of producers through producer responsibility organiza-
24 tions to develop and implement producer responsibility program plans
25 is in the best interests of the public. Therefore, the Legislative As-
26 sembly declares its intent that participating in a producer responsi-
27 bility organization to implement a producer responsibility program
28 plan as required by sections 1 to 43 of this 2021 Act shall be exempt
29 from state antitrust laws. The Legislative Assembly further declares
30 its intent to provide immunity for participating in a producer respon-

1 sibility organization to implement a producer responsibility program
2 plan as required by sections 1 to 43 of this 2021 Act from federal anti-
3 trust laws. This section does not authorize any person to engage in
4 activities or to conspire to engage in activities that constitute per se
5 violations of state or federal antitrust laws that are not authorized
6 under sections 1 to 43 of this 2021 Act.

7 **“SECTION 43. Rules.** The Environmental Quality Commission may
8 adopt rules as necessary to implement sections 1 to 43 of this 2021 Act.

9
10 **“(State Procurement Assessment)**

11
12 **“SECTION 44. State procurement assessment.** (1) The Oregon De-
13 partment of Administrative Services, in consultation with the De-
14 partment of Environmental Quality, shall study and assess state
15 procurement practices as they relate to recycled products, recycled
16 PETE and recycled materials as those terms are defined in ORS
17 279A.010. The assessment must include:

18 **“(a) An evaluation of procurement practices under ORS chapters**
19 **279A and 279B related to recycled materials, including efficacy and**
20 **compliance;**

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

23 **“(c) A feasibility study of additional opportunities to increase the**
24 **purchase of products containing post-consumer recycled content, in-**
25 **cluding but not limited to products containing post-consumer recycled**
26 **PETE and other plastics;**

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

30 **“(e) Recommendations for legislation.**

1 **“(2) The Oregon Department of Administrative Services shall pro-**
2 **vide the results of the assessment in a report to the appropriate in-**
3 **terim committees of the Legislative Assembly in the manner provided**
4 **under ORS 192.245. The department shall revise the initial assessment**
5 **completed under this section every five years.**

6
7 **“AMENDMENTS TO STATUTES**

8
9 **“SECTION 45.** ORS 459.005 is amended to read:

10 “459.005. As used in ORS 459.005 to 459.437, 459.705 to 459.790 and
11 459A.005 to 459A.665:

12 “(1) ‘Affected person’ means a person or entity involved in the solid waste
13 collection service process including but not limited to a recycling collection
14 service, disposal site permittee or owner, city, county and metropolitan ser-
15 vice district.

16 “(2) ‘Board of county commissioners’ or ‘board’ includes a county court.

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

20 “(4) ‘Commercial’ means stores, offices including manufacturing and in-
21 dustry offices, restaurants, warehouses, schools, colleges, universities, hos-
22 pitals and other nonmanufacturing entities, but does not include other
23 manufacturing activities or business, manufacturing or processing activities
24 in residential dwellings.

25 “(5) ‘Commission’ means the Environmental Quality Commission.

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

28 “(7) ‘Department’ means the Department of Environmental Quality.

29 “(8)(a) ‘Disposal site’ means land and facilities used for the disposal,
30 handling or transfer of, or energy recovery, material recovery and recycling

1 from solid wastes, including but not limited to dumps, landfills, sludge
2 lagoons, sludge treatment facilities, disposal sites for septic tank pumping
3 or cesspool cleaning service, transfer stations, energy recovery facilities,
4 incinerators for solid waste delivered by the public or by a collection service,
5 composting plants and land and facilities previously used for solid waste
6 disposal at a land disposal site.

7 “(b) ‘Disposal site’ does not include:

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

10 “(B) A facility subject to the permit requirements of ORS 468B.050 or
11 468B.053;

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

16 “(D) A site operated by a dismantler issued a certificate under ORS
17 822.110.

18 “(9) ‘Energy recovery’ means recovery in which all or a part of the solid
19 waste materials are processed to use the heat content, or other forms of en-
20 ergy, of or from the material.

21 “(10) ‘Franchise’ includes a franchise, certificate, contract or license is-
22 sued by a local government unit authorizing a person to provide solid waste
23 management services.

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

25 “(12) ‘Household hazardous waste’ means any discarded, useless or un-
26 wanted chemical, material, substance or product that is or may be hazardous
27 or toxic to the public or the environment and is commonly used in or around
28 households and is generated by the household. ‘Household hazardous waste’
29 may include but is not limited to some cleaners, solvents, pesticides and au-
30 tomotive and paint products.

1 “(13) ‘Land disposal site’ means a disposal site in which the method of
2 disposing of solid waste is by landfill, dump, pit, pond or lagoon.

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

5 “(15) ‘Local government unit’ means a city, county, metropolitan service
6 district formed under ORS chapter 268, sanitary district or sanitary authority
7 formed under ORS chapter 450, county service district formed under ORS
8 chapter 451, regional air quality control authority formed under ORS
9 468A.100 to 468A.130 and 468A.140 to 468A.175 or any other local government
10 unit responsible for solid waste management.

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

14 “(17) **‘Materials management’ means an approach that seeks to re-**
15 **duce environmental impacts by managing materials throughout all**
16 **stages of their life cycle, including but not limited to solid waste**
17 **management.**

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

21 “[18] (19) ‘Person’ means the United States, the state or a public or
22 private corporation, local government unit, public agency, individual, part-
23 nership, association, firm, trust, estate or any other legal entity.

24 “[19] (20) ‘Recyclable material’ means any material **identified for re-**
25 **cycling collection under section 22 of this 2021 Act or any other ma-**
26 **terial** or group of materials that can be collected and sold for recycling at
27 a net cost equal to or less than the cost of collection and disposal of the
28 same material.

29 “[20] (21) ‘Recycling’ means any process by which solid waste materials
30 are transformed into new products in a manner that the original products

1 may lose their identity.

2 “[21] (22) ‘Region’ means the states of Idaho, Oregon and Washington
3 and those counties in California and Nevada that share a common border
4 with Oregon.

5 “[22] (23) ‘Regional disposal site’ means a disposal site that receives, or
6 a proposed disposal site that is designed to receive more than 75,000 tons of
7 solid waste a year from outside the immediate service area in which the
8 disposal site is located. As used in this subsection, ‘immediate service
9 area’ means the county boundary of all counties except a county that is
10 within the boundary of the metropolitan service district. For a county within
11 the metropolitan service district, ‘immediate service area’ means the metro-
12 politan service district boundary.

13 “[23] (24) ‘Reuse’ means the return of a commodity into the economic
14 stream for use in the same kind of application as before without change in
15 its identity.

16 “[24] (25) ‘Solid waste’ means all useless or discarded putrescible and
17 nonputrescible materials, including but not limited to garbage, rubbish, re-
18 fuse, ashes, paper and cardboard, sewage sludge, septic tank and cesspool
19 pumpings or other sludge, useless or discarded commercial, industrial, dem-
20 olition and construction materials, discarded or abandoned vehicles or parts
21 thereof, discarded home and industrial appliances, manure, vegetable or ani-
22 mal solid and semisolid materials, dead animals and infectious waste as de-
23 fined in ORS 459.386. ‘Solid waste’ does not include:

24 “(a) Hazardous waste as defined in ORS 466.005.

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

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

30 “[25] (26) ‘Solid waste management’ means prevention or reduction of

1 solid waste, management of the storage, collection, transportation, treatment,
2 utilization, processing and final disposal of solid waste, recycling, reuse and
3 material or energy recovery from solid waste and facilities necessary or
4 convenient to such activities.

5 “[26] (27) ‘Source separate’ means that the person who last uses
6 recyclable material separates the recyclable material from solid waste.

7 “[27] (28) ‘Transfer station’ means a fixed or mobile facility other than
8 a collection vehicle where solid waste is deposited temporarily after being
9 removed from the site of generation but before being transported to a final
10 disposal location.

11 “[28] (29) ‘Waste prevention’ means to reduce the amount of solid waste
12 generated or resources used, without increasing toxicity, in the design,
13 manufacture, purchase or use of products or packaging. ‘Waste prevention’
14 does not include reuse, recycling or composting.

15 “[29] (30) ‘Wasteshed’ means an area of the state having a common solid
16 waste disposal system or designated by the commission as an appropriate
17 area of the state within which to develop a common recycling program.

18 “[30] (31) ‘Woody biomass’ means material from trees and woody plants,
19 including limbs, tops, needles, leaves and other woody parts, grown in a
20 forest, woodland, farm, rangeland or wildland-urban interface environment
21 that is the by-product of forest management, ecosystem restoration or haz-
22 ardous fuel reduction treatment.

23 “[31] (32) ‘Yard debris’ includes grass clippings, leaves, hedge trimmings
24 and similar vegetative waste generated from residential property or land-
25 scaping activities, but does not include stumps or similar bulky wood mate-
26 rials.

27 **“SECTION 46.** ORS 459.015 is amended to read:

28 “459.015. (1) The Legislative Assembly finds and declares that:

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

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

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

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

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

15 “(f) It is in the best interests of the people of Oregon to conserve re-
16 sources and energy by developing an economy that encourages waste pre-
17 vention and recycling.

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

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

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

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

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

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

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

27 “(c) If information on the net negative impacts described in para-
28 graph (a) of this subsection is unavailable or highly uncertain, estab-
29 lish priority in methods of managing solid waste in Oregon as follows:

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

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

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

8 “(i) **Recycling methods and end markets that displace the pro-**
9 **duction of more impactful materials over recycling methods and end**
10 **markets that displace the production of less impactful materials.**

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

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

17 “(E) Fifth, to recover energy from solid waste that cannot be reused, re-
18 cycled or composted [*so long as the energy recovery facility preserves the*
19 *quality of air, water and land resources; and*], **provided that the emissions**
20 **and impacts of energy recovery are understood and result in net re-**
21 **ductions in impacts on human well-being and environmental health**
22 **relative to the methods described in subparagraph (F) of this para-**
23 **graph.**

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

27 “[*(b)*] **(d)** Clearly express the Legislative Assembly’s previous delegation
28 of authority to cities and counties for collection service franchising and
29 regulation and the extension of that authority under the provisions of this
30 section and ORS 459.125 and 459A.005 to 459A.085.

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

7 “[(d)] **(f)** Promote, encourage and develop markets first for reusable ma-
8 terial and then for recyclable material.

9 “[(e)] **(g)** Promote research, surveys and demonstration projects to en-
10 courage material or energy recovery.

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

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

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

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

24 “[(j)] **(L)** Provide authority for counties to establish a coordinated pro-
25 gram for solid waste management, to regulate solid waste management and
26 to license or franchise the providing of service in the field of solid waste
27 management.

28 “[(k)] **(m)** Encourage utilization of the capabilities and expertise of pri-
29 vate industry.

30 “[(L)] **(n)** Promote means of preventing or reducing at the source, mate-

1 rials *[which]* **that** otherwise would constitute solid waste.

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

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

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

13 “**SECTION 47.** ORS 459.995 is amended to read:

14 “459.995. (1) Except as provided in subsection (2) of this section, in addi-
15 tion to any other penalty provided by law:

16 “(a) Any person who violates ORS 459.205, 459.270, 459.272, 459.386 to
17 459.405, 459.705 to 459.790, 459A.005 to 459A.620, 459A.310 to 459A.335[,
18 459A.675 to 459A.685] or 646A.080 **or sections 1 to 43 of this 2021 Act**, or
19 any rule or order of the Environmental Quality Commission pertaining to the
20 disposal, collection, storage or reuse or recycling of solid wastes, as defined
21 by ORS 459.005, or any rule or order pertaining to the disposal, storage or
22 transportation of waste tires, as defined by ORS 459.705, or any rule or order
23 pertaining to the sale of novelty items that contain encapsulated liquid
24 mercury, incurs a civil penalty not to exceed \$25,000 per day for each day
25 of the violation.

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

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

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

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

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

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

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

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

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

22 **“SECTION 48.** ORS 459A.005 is amended to read:

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

26 “(a)(A) Provides a place for collecting source separated recyclable mate-
27 rial, **including the materials on the uniform statewide collection list**
28 **established under section 22 of this 2021 Act designated for collection**
29 **at a recycling depot**, located either at a disposal site or at another location
30 more convenient to the population being served and, if a city has a popu-

1 lation of 4,000 or more, collection at least once a month of source separated
2 recyclable material, **including the materials on the uniform statewide**
3 **collection list established under section 22 of this 2021 Act designated**
4 **for on-route collection, in a manner that is at least as convenient as**
5 **garbage collection service**, from collection service customers within the
6 city’s urban growth boundary or, where applicable, within the urban growth
7 boundary established by a metropolitan service district; or

8 “(B) Provides an alternative method that complies with rules of the En-
9 vironmental Quality Commission; and

10 “(b) Complies with the program element requirements described in ORS
11 459A.007.

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

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

15 “(b) Encourages source separation of recyclable material.

16 **“SECTION 49.** ORS 459A.005, as amended by section 2, chapter 534,
17 Oregon Laws 2015, is amended to read:

18 “459A.005. (1) As used in ORS 459.015, 459.250 and 459A.005 to 459A.665,
19 the ‘opportunity to recycle’ means at least that the city, county or metro-
20 politan service district responsible for solid waste management:

21 “(a)(A) Provides a place for collecting source separated recyclable mate-
22 rial, **including the materials on the uniform statewide collection list**
23 **established under section 22 of this 2021 Act designated for collection**
24 **at a recycling depot**, located either at a disposal site or at another location
25 more convenient to the population being served and, if a city has a popu-
26 lation of 4,000 or more, collection at least once a month of source separated
27 recyclable material, **including the materials on the uniform statewide**
28 **collection list established under section 22 of this 2021 Act designated**
29 **for on-route collection, in a manner that is at least as convenient as**
30 **garbage collection service**, from collection service customers within the

1 city’s urban growth boundary or, where applicable, within the urban growth
2 boundary established by a metropolitan service district; or

3 “(B) Provides an alternative method that complies with rules of the En-
4 vironmental Quality Commission; and

5 “(b) Complies with the program element requirements described in ORS
6 459A.007.

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

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

10 “(b) Encourages source separation of recyclable material.

11 “(3) As used in this section, ‘collection service customers’ includes:

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

13 “(b) The residential and commercial tenants of landlords or property
14 managers that are customers of a collection service for the benefit of their
15 tenants. **The Director of the Department of Environmental Quality may
16 approve exemptions to the requirement to provide the opportunity to
17 recycle to tenants described in this paragraph in cases of extreme
18 compliance barriers caused by lack of space, local land use or zoning
19 laws or other insurmountable challenges.**

20 “**SECTION 50.** Section 3, chapter 534, Oregon Laws 2015, is amended to
21 read:

22 “**Sec. 3.** The amendments to ORS 459A.005 by section 2 of this 2015 Act
23 become operative on July 1, [2022] **2026**.

24 “**SECTION 51.** ORS 459A.007 is amended to read:

25 “459A.007. (1) A person providing the opportunity to recycle shall fulfill
26 the requirements of subsection (3) of this section using the following recy-
27 cling program elements:

28 “(a) Provision of at least one durable recycling container to each resi-
29 dential service customer.

30 “(b) On-route collection at least once each week of source separated

1 recyclable material from residential collection service customers, provided
2 on the same day that solid waste is collected from each customer.

3 “(c) An expanded education and promotion program as described in ORS
4 459A.008.

5 “(d) A multifamily collection program that includes:

6 “(A) Collection of [*at least four principal recyclable materials or the num-*
7 *ber of materials required to be collected under the residential on-route col-*
8 *lection program, whichever is less,*] **materials designated for collection on**
9 **the uniform statewide collection list established under section 22 of**
10 **this 2021 Act** from each multifamily dwelling complex that has five or more
11 units; and

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

14 “(e) An effective residential yard debris collection and composting pro-
15 gram that includes the promotion of home composting of yard debris, and
16 that also includes either:

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

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

22 “(f) A commercial recycling program that includes:

23 “(A) Weekly, or on a more appropriate regular schedule, onsite collection
24 of source separated [*principal recyclable*] materials **designated for col-**
25 **lection on the uniform statewide collection list established under sec-**
26 **tion 22 of this 2021 Act** from, at a minimum, commercial generators of solid
27 waste employing 10 or more persons and occupying 1,000 square feet or more
28 in a single location.

29 “(B) An education and promotion program conducted to inform all com-
30 mercial generators of solid waste of the manner and benefits of the com-

1 commercial recycling program that provides effective promotion of the program
2 to the generators.

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

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

11 “(g) Expanded depots for recycling of at least all [*principal recyclable*]
12 materials **designated for collection at recycling depots on the uniform**
13 **statewide collection list established under section 22 of this 2021 Act,**
14 and provisions for promotion or education to maximize the use of the depots.
15 The depots must:

16 “(A) Have regular and convenient hours;

17 “(B) Be open on the weekend days; and

18 “(C) When feasible, collect additional recyclable materials.

19 “(h) Solid waste residential collection rates that encourage waste re-
20 duction, reuse and recycling through reduced rates for smaller containers,
21 including at least one rate for a container that is 21 gallons or less in size.
22 Based on the average weight of solid waste disposed per container for con-
23 tainers of different sizes, the rate on a per pound disposed basis may not
24 decrease with increasing size of containers, and the rates per container ser-
25 vice may not be less with additional containers serviced.

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

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

1 separate recyclable materials.

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

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

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

11 “(B) Includes an education or promotion program for developers, con-
12 tractors and residential owners that provides strategies to:

13 “(i) Reduce waste during preconstruction planning and in building con-
14 struction, renovation and demolition phases; and

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

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

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

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

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

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

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

3 “(e) A program for the provision of city or wasteshed funding or
4 infrastructure support to promote and sustain reuse, repair, leasing or shar-
5 ing efforts.

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

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

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

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

18 “(b) An alternative program that complies with the rules of the Environ-
19 mental Quality Commission and that is designed to be as effective in recov-
20 ering recyclable materials from solid waste as the requirements provided in
21 subsection (4) of this section and to achieve at least the lesser of:

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

23 “(B) Recovery levels comparable to similar communities.

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

26 “(a) For cities within a metropolitan service district:

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

30 “(B) At least eight recycling program elements set forth under subsection

1 (1) of this section.

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

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

8 “(d) For cities with a population of more than 10,000 but not more than
9 50,000 that are located 150 miles or less from the City of Portland:

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

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

15 “(e) For cities with a population of more than 10,000 that are located
16 more than 150 miles from the City of Portland:

17 “(A) The three recycling program elements set forth under subsection
18 (1)(a), (b) and (c) of this section and at least one additional [*elements*] **ele-**
19 **ment** set forth under subsection (1) of this section; or

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

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

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

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

29 “(5) A city or county that is not subject to subsection (6) or (7) of this
30 section may substitute the waste prevention and reuse program element set

1 forth in subsection (2)(a) of this section and at least two additional elements
2 set forth in subsection (2) of this section for one recycling program element
3 set forth under subsection (1) of this section.

4 “(6) Each city that is within a metropolitan service district or with a
5 population of greater than 50,000 and each county that is responsible for the
6 area between city limits and the urban growth boundary of a city with a
7 population of greater than 50,000 or the area outside of city limits but within
8 a metropolitan service district urban growth boundary shall implement ei-
9 ther:

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

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

16 “(7) Each city with a population of greater than 10,000 but no more than
17 50,000, that is within a county of greater than 100,000 population, and each
18 county of greater than 100,000 population that is responsible for the area
19 between city limits and the urban growth boundary of a city with a popu-
20 lation of greater than 10,000 but no more than 50,000 shall implement either:

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

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

27 “(8)(a) For a city using waste prevention and reuse elements set forth
28 under subsection (2) of this section to satisfy requirements set forth in sub-
29 section (6) or (7) of this section, waste prevention and reuse elements may
30 be provided by the county or metropolitan service district where the city is

1 located, provided that implementation or provisions of such elements are
2 made available throughout the city.

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

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

13 “(A) Include in those rates all net costs incurred by the local government,
14 franchisee or licensee for providing the opportunity to recycle and for im-
15 plementing the requirements of this section; or

16 “(B) Fund implementation of the opportunity to recycle through an al-
17 ternative source of funding that may include but is not limited to disposal
18 fees.

19 “(b) As used in this subsection, ‘net costs’ includes but is not limited to
20 the reasonable costs for collecting, handling, processing, storing, transport-
21 ing and delivering to market recyclable material and for providing any re-
22 quired education and promotion or data collection services adjusted by a
23 factor to account for proceeds from the sale of recyclable material.

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

27 **“SECTION 52.** ORS 459A.008 is amended to read:

28 “459A.008. An expanded education and promotion program to satisfy the
29 requirements of ORS 459A.007 must carry out the policy set forth in ORS
30 459.015, inform generators of solid waste of the manner and benefits of re-

1 ducing, reusing, recycling and composting material, promote use of recycling
2 services and reduce contamination in collected recyclables. The city, county
3 or metropolitan service district responsible for providing an opportunity to
4 recycle shall provide the education and promotion program in one of the
5 following ways:

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

10 “(b) The plan described in paragraph (a) of this subsection must be sub-
11 mitted to the Department of Environmental Quality during the first year that
12 the plan is in effect. Thereafter, the watershed shall submit a summary of
13 activities in the plan to the department at the same time the county submits
14 the periodic report required under ORS 459A.050 (1)(a). The summary must
15 cover at least the time period until the next periodic report is due to the
16 department.

17 “(2) Implementing all of the following:

18 “(a)(A) Provision of recycling notification and education packets to all
19 new residential, commercial and institutional collection service customers
20 that include, at a minimum, information about the materials collected, the
21 schedule for collection, the way to prepare materials for collection, why
22 separating material for recycling is necessary and how to reduce contam-
23 ination of the materials set out for collection.

24 “(B) In addition to the requirements of subparagraph (A) of this para-
25 graph, the educational and promotional materials provided to commercial
26 collection customers must:

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

28 “(ii) Include information on the economic and other benefits of recycling,
29 common barriers to recycling and solutions to the barriers, additional re-
30 sources for commercial generators of solid waste and other information de-

1 signed to assist and encourage recycling efforts and reduce contamination;
2 and

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

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

9 “(c) Provision, at least annually, of the information described in para-
10 graph (a) of this subsection to all residential, commercial and institutional
11 collection service customers.

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

14 “[*e*] A program to determine the levels of contamination of materials set
15 out for collection and to take action to reduce contamination in collected
16 recyclables.]

17 **“SECTION 53.** ORS 459A.025 is amended to read:

18 “459A.025. (1) According to the requirements of ORS chapter 183, the
19 Environmental Quality Commission shall adopt rules and guidelines neces-
20 sary to carry out the provisions of ORS 459.005, 459.015, 459.035, 459.250,
21 459.992 (1) and (2), 459.995 and 459A.005 to 459A.665, including but not lim-
22 ited to:

23 “(a) Acceptable alternative methods for providing the opportunity to re-
24 cycle;

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

27 “(c) Identification of the wastesheds within the state;

28 “[*d*] Identification of the principal recyclable material in each
29 wasteshed;]

30 “[*e*] (d) Guidelines for local government units and other persons re-

1 sponsible for implementing the provisions of ORS 459.005, 459.015, 459.035,
2 459.250, 459.992 (1) and (2), 459.995 and 459A.005 to 459A.665; and

3 “[~~f~~] (e) Standards for the joint submission of the recycling reports re-
4 quired under ORS 459A.050 (1).

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

7 “(a) The policy stated in ORS 459.015.

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

10 “(c) Availability of markets for recyclable material.

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

13 “(e) Avoided costs of disposal.

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

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

17 **“SECTION 54.** ORS 459A.080 is amended to read:

18 “459A.080. A person may not:

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

22 “(2) Remove any recyclable material from a container, box, collection ve-
23 hicle, depot or other receptacle for the accumulation or storage of recyclable
24 material without permission of the owner of the receptacle.

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

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

1 **“SECTION 55.** ORS 459.035 is amended to read:

2 “459.035. Consistent with ORS 459.015 [(2)(c)] **(2)(e)**, the Department of
3 Environmental Quality shall provide to state agencies, local government
4 units and persons providing collection service, advisory technical and plan-
5 ning assistance in development and implementation of effective solid waste
6 management plans and practices, implementation of recycling programs un-
7 der ORS 459.250, 459A.005 to 459A.120 and 459A.600 to 459A.620, and assist-
8 ance in training of personnel in solid waste management. The department
9 shall report to the Legislative Assembly from time to time on further as-
10 sistance that will be needed to develop, implement and administer effective
11 solid waste management programs or recycling programs. The department
12 shall assist in surveys to locate potential disposal sites. The department may
13 request the assistance of other state agencies.

14 **“SECTION 56.** ORS 459.772 is amended to read:

15 “459.772. Notwithstanding any other provision of ORS 459.015, for pur-
16 poses of encouraging the use of waste tires under ORS 459.705 to 459.790, the
17 use of processed, source-separated waste tires having a positive market value
18 as a new product to recover energy shall be considered recycling under ORS
19 459.015 [(2)(a)(C)] **(2)(c)(C)**.

20 **“SECTION 57.** ORS 90.318 is amended to read:

21 “90.318. (1) In a city or the county within the urban growth boundary of
22 a city that has implemented multifamily recycling service, a landlord who
23 has five or more residential dwelling units on a single premises or five or
24 more manufactured dwellings in a single facility shall at all times during
25 tenancy provide to all tenants:

26 “(a) A separate location for containers or depots for [*at least four princi-*
27 *pal recyclable materials or for the number of materials required to be collected*
28 *under the residential on-route collection program, whichever is less,*] **materi-**
29 **als designated for collection on the uniform statewide collection list**
30 **established under section 22 of this 2021 Act,** adequate to hold the rea-

1 sonably anticipated volume of each material;

2 “(b) Regular collection service of the source separated recyclable materi-
3 als; and

4 “(c) Notice at least once a year of the opportunity to recycle with a de-
5 scription of the location of the containers or depots on the premises and in-
6 formation about how to recycle. New tenants shall be notified of the
7 opportunity to recycle at the time of entering into a rental agreement.

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

10

11

“REPEALS

12

13 **“SECTION 58. ORS 459A.675, 459A.680 and 459A.685 are repealed.**

14

15

“TEMPORARY PROVISIONS

16

17 **“SECTION 59. A producer responsibility organization shall first
18 submit a producer responsibility program plan to the Department of
19 Environmental Quality under section 6 of this 2021 Act no later than
20 March 31, 2024.**

21

22 **“SECTION 60. (1) The Department of Environmental Quality shall
23 first report the findings of the study conducted under section 29 of this
24 2021 Act to the Environmental Quality Commission no later than May
15, 2024.**

25

26 **“(2) The department shall complete the first study required under
section 30 of this 2021 Act no later than October 31, 2023.**

27

28 **“(3) The Oregon Department of Administrative Services shall first
29 complete the assessment required by section 44 of this 2021 Act no
later than May 15, 2024.**

30

“SECTION 61. Section 36 of this 2021 Act applies to products sold

1 in or into this state on or after the effective date of rules adopted
2 under section 36 of this 2021 Act.

3 **“SECTION 62.** Section 21 of this 2021 Act becomes operative on
4 January 1, 2026.

5 **“SECTION 63.** (1) The amendments to section 19 of this 2021 Act by
6 section 19a of this 2021 Act become operative on January 1, 2027.

7 **“(2)** The Department of Environmental Quality and Environmental
8 Quality Commission may take any action before the operative date
9 specified in subsection (1) of this section that is necessary for the de-
10 partment or the commission to exercise, on and after the operative
11 date specified in subsection (1) of this section, all of the duties, func-
12 tions and powers conferred on the department and the commission by
13 the amendments to section 19 of this 2021 Act by section 19a of this
14 2021 Act.

15 **“SECTION 64.** Notwithstanding the term of office specified in sec-
16 tion 17 of this 2021 Act, of the members first appointed to the Oregon
17 Recycling System Advisory Council:

18 **“(1)** Five shall serve for terms ending June 30, 2023;

19 **“(2)** Five shall serve for terms ending June 30, 2024; and

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

21

22 **“UNIT AND SECTION CAPTIONS**

23

24 **“SECTION 65.** The unit and section captions used in this 2021 Act
25 are provided only for the convenience of the reader and do not become
26 part of the statutory law of this state or express any legislative intent
27 in the enactment of this 2021 Act.”.

28
