

SB 582-9
(LC 2232)
4/7/21 (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

10 **“(Legislative Findings; Definitions)**

11

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

13

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

19

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

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

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

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

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

21 “(1) ‘Brand’ means any mark, word, name, symbol, design, device
22 or graphical element, or a combination thereof, including a registered
23 or unregistered trademark, that identifies a product and distinguishes
24 the product from other products.

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

29 “(3)(a) ‘Commingled recycling processing facility’ means a facility
30 that:

1 “(A) Receives source separated commingled recyclable materials
2 that are collected commingled from a collection program providing the
3 opportunity to recycle; and

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

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

8 “(A) Scrap metal recycling facilities;

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

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

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

16 “(E) Recycling processing facilities that only process
17 noncommingled, source separated recyclable material from commer-
18 cial entities;

19 “(F) Recycling processing facilities that recover commingled
20 recyclable material primarily from the construction and demolition
21 debris waste stream;

22 “(G) Recycling depots;

23 “(H) Recycling reload facilities; or

24 “(I) Limited sort facilities, as defined by rule by the Environmental
25 Quality Commission.

26 “(4) ‘Contaminant’ means:

27 “(a) A material set out for recycling collection that is not properly
28 prepared and on the list of materials accepted for recycling collection
29 by a recycling collection program; or

30 “(b) A material shipped to a recycling end market that is not ac-

1 cepted or desired by that end market.

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

6 “(6)(a) ‘Covered product’ means:

7 “(A) Packaging;

8 “(B) Printing and writing paper; and

9 “(C) Food serviceware.

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

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

12 “(B) Bound books.

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

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

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

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

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

24 “(F) Liquified petroleum gas containers that are designed to be re-
25 filled.

26 “(G) A material that the producer demonstrates is exempt under
27 section 4 of this 2021 Act.

28 “(H) Pallet wrap or similar packaging used to secure a palletized
29 load if added by a person that is not the producer of the palletized
30 covered products.

1 **“(I) Packaging related to containers for architectural paint, as de-**
2 **fin ed in ORS 459A.822, that has been collected by a producer responsi-**
3 **bility organization under the program established under ORS 459A.820**
4 **to 459A.855.**

5 **“(J) Any item that is not ultimately discarded inside this state,**
6 **whether for purposes of recovery or disposal.**

7 **“(K) Items sold on a farm or used on a farm, including items used**
8 **for farm use, as defined in ORS 215.203, or for processing on a farm,**
9 **provided that an item used on a farm is not subsequently sold at a**
10 **retail establishment that is not located on a farm.**

11 **“(L) Items used by a nursery licensed under ORS 571.055 that gen-**
12 **erates the majority of the nursery’s revenue through the sale of**
13 **nursery stock, as defined in ORS 571.005, provided that the items are**
14 **not sold through retail sales.**

15 **“(M) Packaging for drugs that are exempt from packaging and la-**
16 **beling requirements under section 503(b) of the Federal Food, Drug and**
17 **Cosmetic Act, 21 U.S.C. 353(b), or paper products sold or supplied in**
18 **connection with drugs exempt from packaging and labeling require-**
19 **ments under section 503(b) of the Federal Food, Drug, and Cosmetic**
20 **Act.**

21 **“(N) Packaging used for drugs regulated by the United States Food**
22 **and Drug Administration, the United States Department of Agricul-**
23 **ture or the United States Environmental Protection Agency that are**
24 **prescribed, administered or dispensed by or under the supervision of**
25 **a licensed veterinarian.**

26 **“(O) Wine and spirit containers for which a refund value is estab-**
27 **lished under Oregon law.**

28 **“(P) Any other material, as determined by the commission by rule,**
29 **after consultation with the Oregon Recycling System Advisory Coun-**
30 **cil.**

1 **“(7) ‘Food serviceware’ means paper or plastic plates, wraps, cups,**
2 **bowls, pizza boxes, cutlery, straws, lids, bags, aluminum foil or**
3 **clamshells or similar containers:**

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

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

9 **“(8) ‘Generator’ means a person that first discards a solid waste or**
10 **makes the solid waste available for recovery.**

11 **“(9) ‘Large producer’ means a producer that is among the 25 largest**
12 **producers of covered products based on market share.**

13 **“(10) ‘Licensee’ means a person that is licensed by a brand and**
14 **manufactures a covered product or a packaged item under that brand.**

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

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

18 **“(a) A city;**

19 **“(b) A county; or**

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

21 **“(13) ‘Local government’s service provider’ means:**

22 **“(a) A collection service franchise holder under ORS 459A.085;**

23 **“(b) Any person authorized by a city or county to provide recycling**
24 **collection services described in subsection (27)(a) to (d) of this section;**
25 **or**

26 **“(c) Any person authorized by a metropolitan service district to**
27 **provide recycling collection services described in subsection (27)(d) of**
28 **this section.**

29 **“(14) ‘Market share’ means a producer’s percentage of all covered**
30 **products sold in or into this state during a specified time period, as**

1 calculated in accordance with methods established by the commission
2 by rule.

3 “(15) ‘Mechanical recycling’ means a form of recycling that does
4 not change the basic molecular structure of the material being recy-
5 cled.

6 “(16) ‘Metropolitan service district’ means a metropolitan service
7 district established under ORS chapter 268.

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

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

14 “(19)(a) ‘Packaging’ means:

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

18 “(B) Single-use bags, including but not limited to shopping bags;
19 and

20 “(C) Nondurable materials used in storage, shipping or moving, in-
21 cluding but not limited to packing materials, moving boxes, file boxes
22 and folders.

23 “(b) ‘Packaging’ does not include:

24 “(A) Food serviceware; or

25 “(B) Sharps, as defined in ORS 459.386.

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

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

30 “(22) ‘Processor’ means a person that owns or operates a

1 commingled recycling processing facility.

2 “(23) ‘Producer’ means a person that is determined to be the pro-
3 ducer of a covered product under section 3 of this 2021 Act.

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

7 “(25) ‘Producer responsibility program’ means a statewide program
8 for the responsible management of covered products that is adminis-
9 tered by a producer responsibility organization pursuant to a plan ap-
10 proved by the Department of Environmental Quality under section 7
11 of this 2021 Act.

12 “(26) ‘Recycling collection’ means the act or process of gathering
13 recyclable materials by:

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

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

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

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

23 “(e) Other collection methods included in an approved producer re-
24 sponsibility program plan.

25 “(27) ‘Recycling depot’ means a location where recyclable materials
26 are accepted from the public or commercial businesses and transported
27 to a location for processing or to an end market.

28 “(28) ‘Recycling reload facility’ means a facility other than a recy-
29 cling depot where recyclable materials are received, consolidated and
30 made ready for transport to another location for processing or to a

1 **responsible end market.**

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

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

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

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

21 **“(33) ‘Small producer’ means a producer that:**

22 **“(a) Is a nonprofit organization;**

23 **“(b) Is a public body, as defined in ORS 174.109;**

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

26 **“(d) Sold in or into Oregon less than one metric ton of covered**
27 **products for use in this state in the most recent calendar year;**

28 **“(e) Is a manufacturer of a beverage sold in a beverage container,**
29 **as those terms are defined in ORS 459A.700, that sold in or into Oregon**
30 **less than five metric tons of covered products, including but not lim-**

1 ited to secondary and tertiary packaging for beverage containers, for
2 use in this state in the most recent calendar year;

3 “(f) Is a business establishment that primarily sells prepared food
4 and is not a producer of food serviceware as described in section 3 of
5 this 2021 Act; or

6 “(g) Operates a single retail sales establishment, has no online sales
7 and is not supplied or operated as part of a franchise or a chain.

8 “(34) ‘Specifically identified material’ means a material or covered
9 product identified by the Department of Environmental Quality under
10 section 23 of this 2021 Act.

11 “(35) ‘Uniform statewide collection list’ means the list of materials
12 established in accordance with the requirements of section 22 (4) of
13 this 2021 Act.

14

15 “(Producer Responsibility Organizations)

16

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

20 “(1)(a) For items sold in packaging at a physical retail location in
21 this state:

22 “(A) If the item is sold in packaging under the manufacturer’s own
23 brand or is sold in packaging that lacks identification of a brand, the
24 producer of the packaging is the person that manufactures the pack-
25 aged item;

26 “(B) If the item is manufactured by a person other than the brand
27 owner, the producer of the packaging is the person that is the licensee
28 of a brand or trademark under which a packaged item is used in a
29 commercial enterprise, sold, offered for sale or distributed in or into
30 this state, whether or not the trademark is registered in this state;

1 or

2 “(C) If there is no person described in subparagraphs (A) and (B)
3 of this paragraph within the United States, the producer of the pack-
4 aging is the person that imports the packaged item into the United
5 States for use in a commercial enterprise that sells, offers for sale or
6 distributes the item in this state.

7 “(b) For items sold in packaging in or into this state via remote
8 sale:

9 “(A) The producer of packaging used to directly protect or contain
10 the item is the same as the producer for purposes of paragraph (a) of
11 this subsection.

12 “(B) The producer of packaging used to ship the item to a consumer
13 is the person that packages and ships the item to the consumer.

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

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

19 “(A) The person that manufactures the printing and writing paper
20 under the manufacturer’s own brand;

21 “(B) If the printing and writing paper is manufactured by a person
22 other than the brand owner, the person that the owner or licensee of
23 a brand or trademark under which the printing and writing paper is
24 used in a commercial enterprise, sold, offered for sale or distributed
25 in or into this state, whether or not the trademark is registered in this
26 state; or

27 “(C) If there is no person described in subparagraphs (A) and (B)
28 of this paragraph within the United States, the person that imports
29 the printing and writing paper into the United States for use in a
30 commercial enterprise that sells, offers for sale or distributes the

1 printing and writing paper in this state.

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

4 **“SECTION 4. Producers and producer responsibility organizations.**

5 (1) Except as provided in subsection (4) of this section and section 5
6 of this 2021 Act, each producer must register with and be a member
7 of a producer responsibility organization that administers a producer
8 responsibility program.

9 “(2) A producer is required to pay an annual membership fee to a
10 producer responsibility organization as described in section 11 of this
11 2021 Act. Fees established under sections 1 to 43 of this 2021 Act that
12 are charged to a producer responsibility organization must be paid by
13 the producer responsibility organization.

14 “(3) A producer is not required to pay membership fees to a pro-
15 ducer responsibility organization for any covered product if another
16 person has registered with a producer responsibility organization as
17 the producer responsible for that covered product under sections 1 to
18 43 of this 2021 Act.

19 “(4) A producer is not required to be a member of a producer re-
20 sponsibility organization if, for all covered product the producer sells,
21 offers to sell or distributes in or into this state, another person has
22 registered with a producer responsibility organization as the producer
23 responsible for that covered product under sections 1 to 43 of this 2021
24 Act.

25 “(5) A producer that is registered with a producer responsibility
26 organization must:

27 “(a) Pay the membership fee calculated under the schedule estab-
28 lished by the producer responsibility organization pursuant to section
29 11 of this 2021 Act; and

30 “(b) Upon request, provide the producer responsibility organization

1 with records or other information necessary for the organization to
2 meet the organization's obligations under sections 1 to 43 of this 2021
3 Act.

4 “(6) A person that sells a covered product in or into this state via
5 remote means and that is only the producer of the packaging used to
6 ship the covered product, as determined under section 3 (1)(b)(B) of
7 this 2021 Act, must notify the producer of the covered product, as de-
8 termined under section 3 (1)(a) of this 2021 Act, and the seller's pro-
9 ducer responsibility organization of the sale of a packaged product in
10 or into this state.

11 “(7) A producer responsibility organization's obligations under
12 sections 1 to 43 of this 2021 Act to work with recycling system partic-
13 ipants in order to ensure, to the extent practicable, that covered pro-
14 ducts collected by a recycling collection service are recycled by
15 responsible end markets apply to covered products that are:

16 “(a) Collected for recycling pursuant to section 15 of this 2021 Act;

17 “(b) Identified on the uniform statewide collection list and collected
18 pursuant to a collection program providing the opportunity to recycle;

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

20 “(d) Recycled in an effort to achieve the statewide plastic recycling
21 goal established under section 27 of this 2021 Act.

22 “(8) A producer responsibility organization shall make available on
23 the organization's website and update at least once per calendar
24 quarter:

25 “(a) A searchable registry of the organization's compliant members;
26 and

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

30 “(9)(a) If the Department of Environmental Quality approves more

1 than one producer responsibility program, the producer responsibility
2 organizations with approved programs shall establish a producer re-
3 sponsibility organization coordinating body and submit a coordination
4 plan to the department for approval. If requested by the producer re-
5 sponsibility organizations, the department may serve as the coordi-
6 nating body or may form or oversee the coordinating body.

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

8 “(A) Methods for calculating market share;

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

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

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

15 “(c) A coordination plan approved or ordered by the department
16 shall be implemented by all producer responsibility organizations. If
17 the coordination plan conflicts with an approved program plan, the
18 details of the coordination plan prevail.

19 “(d) A coordination plan approved or ordered by the department is
20 valid until revoked or a new coordination plan is approved by the de-
21 partment.

22 “(e) The producer responsibility organization coordinating body
23 shall submit for approval a new coordination plan on a schedule that
24 coincides with the schedule for producer responsibility organizations
25 to submit new producer responsibility program plans.

26 “(10) A producer responsibility organization must ensure that each
27 member of its organization complies with subsection (5) of this sec-
28 tion. The organization shall notify the department within 30 days of:

29 “(a) The end of a three-month period in which the organization
30 unsuccessfully attempted to obtain a membership fee or records or

1 **information from a producer under subsection (5) of this section; or**

2 **“(b) The date a producer member leaves the organization for any**
3 **reason.**

4 **“(11) A producer responsibility organization must provide contact**
5 **information for any of the organization’s registered members to the**
6 **department upon request.**

7 **“(12) No later than December 31 of each year in which an approved**
8 **producer responsibility program plan is required to be operated in this**
9 **state, a producer responsibility organization must have members with**
10 **a combined market share, calculated in accordance with rules estab-**
11 **lished in this section, that is at least 10 percent of the total combined**
12 **market share of all producers of covered products.**

13 **“(13)(a) A producer may demonstrate to the department that a**
14 **material is exempt from the requirements for a covered product if the**
15 **material:**

16 **“(A) Is collected through a recycling collection service not provided**
17 **under the opportunity to recycle;**

18 **“(B) Does not undergo separation from other materials at a**
19 **commingled recycling processing facility; and**

20 **“(C) Is recycled at a responsible end market.**

21 **“(b) If only a portion of the material sold in or into this state by a**
22 **producer meets the criteria of paragraph (a) of this subsection, the**
23 **portion that meets the criteria is exempt and the portion that does**
24 **not meet the criteria is a covered product.**

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

28 **“(2) The Environmental Quality Commission may adopt rules to**
29 **exempt from the requirements of section 4 of this 2021 Act producers**
30 **that do not exceed a minimum market share of covered products sold**

1 in or into this state.

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

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

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

13 **“(A) Support the collection and recycling of covered products that**
14 **are included on the uniform statewide collection list or as necessary**
15 **to meet the statewide plastic recycling goal established under section**
16 **27 of this 2021 Act.**

17 **“(B) Provide for the collection of covered products identified by the**
18 **Environmental Quality Commission under section 22 (1)(b) of this 2021**
19 **Act and meet convenience and performance standards for those cov-**
20 **ered products.**

21 **“(C) Maximize the use of existing infrastructure.**

22 **“(D) Ensure the responsible management of covered products iden-**
23 **tified in section 4 (7) of this 2021 Act and other contaminants collected**
24 **with those covered products.**

25 **“(E) Establish, calculate and charge membership fees, including**
26 **incentives, as described in section 11 of this 2021 Act.**

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

30 **“(G) Ensure that covered products identified in section 4 (7) of this**

1 **2021 Act and collected for recycling, and contaminants collected with**
2 **those covered products, are managed and disposed of consistent with**
3 **the goals, standards and practices required by sections 1 to 43 of this**
4 **2021 Act.**

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

7 **“(i) The type and general locations of responsible end markets that**
8 **may use the material collected from covered products in the manu-**
9 **facture of new products;**

10 **“(ii) Whether any of those responsible end markets are certified for**
11 **environmental and social sustainability by certification programs ap-**
12 **proved by the commission under section 37 of this 2021 Act;**

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

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

17 **“(v) Arrangements the producer responsibility organization has**
18 **made with processors to ensure that covered products identified in**
19 **section 22 of this 2021 Act are recycled at a responsible end market,**
20 **including any investment intended to be made to support processors.**

21 **“(I) Ensure that any material that will be marketed for use through**
22 **a method other than mechanical recycling will be transferred to a re-**
23 **sponsible end market, including:**

24 **“(i) A description of how the proposed method will affect the ability**
25 **of the material to be recycled into feedstock for the manufacture of**
26 **new products;**

27 **“(ii) A description of how the proposed method will affect the types**
28 **and amounts of plastic recycled for food and pharmaceutical-grade**
29 **applications;**

30 **“(iii) A description of any applicable air, water and waste permit-**

1 **ting compliance requirements; and**

2 **“(iv) An analysis of the environmental impacts for the proposed**
3 **method compared to the environmental impacts of mechanical recy-**
4 **cling, incineration and landfill disposal as solid waste.**

5 **“(J) Provide public outreach and education, including:**

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

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

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

13 **“(K) Implement the requirements of section 16 of this 2021 Act.**

14 **“(L) Take actions to address the findings of any report submitted**
15 **under section 29 of this 2021 Act since the organization’s last plan or**
16 **plan amendment was approved and implement recommendations in-**
17 **cluded in the report.**

18 **“(M) Implement improvements identified by any study conducted**
19 **under section 30 of this 2021 Act since the organization’s last plan or**
20 **plan amendment was approved.**

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

24 **“(c) Describe the structure of the producer responsibility organiza-**
25 **tion, including the management structure and roles and functions of**
26 **committees.**

27 **“(d) Describe how the producer responsibility organization will**
28 **communicate and coordinate with the department, the Oregon Recy-**
29 **cling System Advisory Council, local governments, local governments’**
30 **service providers, processors and any other producer responsibility**

1 **organizations and the topics of communication or coordination.**

2 **“(e) Describe a process, including the process timeline, for how the**
3 **producer responsibility organization will resolve any disputes involving**
4 **compensation of local governments and local governments’ service**
5 **providers under section 13 of this 2021 Act and disputes involving**
6 **commingled recycling processing facilities under sections 24 and 25 of**
7 **this 2021 Act.**

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

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

12 **“(A) Any efforts to support or provide recycling depot or mobile**
13 **collection of specifically identified materials;**

14 **“(B) Any efforts to use education and promotion to encourage**
15 **proper participation in recycling collection of specifically identified**
16 **materials;**

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

19 **“(D) Any efforts to develop or support responsible end markets for**
20 **specifically identified materials; and**

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

23 **“(h) Describe the membership fee structure of the producer re-**
24 **sponsibility organization, including a schedule of the membership fees**
25 **actually charged to members.**

26 **“(i) Demonstrate that the membership fees collected by the pro-**
27 **ducer responsibility organization will provide adequate revenue to fund**
28 **all costs associated with the producer responsibility program, includ-**
29 **ing but not limited to costs for:**

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

1 **“(B) The collection, processing, transportation and disposal of cov-**
2 **ered products identified in section 22 of this 2021 Act and collected for**
3 **recycling, and contaminants collected with those covered products;**

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

6 **“(D) Litter and marine debris cleanup and prevention programs**
7 **under section 16 of this 2021 Act;**

8 **“(E) Payment of fees to commingled recycling processing facilities**
9 **under sections 24 and 25 of this 2021 Act; and**

10 **“(F) Reimbursements and advance funding to local governments**
11 **and local governments’ service providers under section 13 of this 2021**
12 **Act.**

13 **“(j) For any program plan submitted by a producer responsibility**
14 **organization following its initial program plan, describe how adjust-**
15 **ments to membership fees offered in response to the requirements of**
16 **section 11 of this 2021 Act have been modified in order to meet the**
17 **objectives described in paragraph (a)(F) of this subsection and section**
18 **11 of this 2021 Act or in response to any evaluation conducted under**
19 **section 12 of this 2021 Act during the time period covered by the prior**
20 **program plan.**

21 **“(k) Describe how the producer responsibility organization will**
22 **provide funding to allow local governments to protect ratepayers from**
23 **increased costs associated with the processing and marketing of**
24 **recyclables identified in section 22 of this 2021 Act.**

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

29 **“(m) Describe reserve funds or other contingency plans for re-**
30 **sponding to changes in markets or other circumstances that could**

1 affect the effectiveness of the program, including the amount of funds
2 in reserve and a description of what contingencies those reserve funds
3 will be sufficient to address.

4 “(n) Include a closure plan to settle the affairs of the producer re-
5 sponsibility organization that ensures that producers will continue to
6 meet their obligations in the event of dissolution of the organization
7 and that describes a process for notifying the department, the Oregon
8 Recycling System Advisory Council and local governments of the dis-
9 solution. The closure plan must include sufficient reserve funds to al-
10 low the producer responsibility organization to satisfy all obligations
11 until such time as producer members have joined a different producer
12 responsibility organization.

13 “(o) Include methods for advance funding, reimbursements and
14 making payments to local governments or local governments’ service
15 providers under section 13 of this 2021 Act.

16 “(p) Describe how the producer responsibility organization will im-
17 plement the requirements of section 13 (6) of this 2021 Act by estab-
18 lishing:

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

21 “(B) A method for determining funding or reimbursement amounts
22 under section 13 (6) of this 2021 Act, consistent with rules adopted by
23 the commission by rule; and

24 “(C) The total amount of funds that will be made available to local
25 governments under section 13 (6) of this 2021 Act each year.

26 “(q) Include any other information required by the department to
27 determine that a producer responsibility organization is capable of
28 meeting its obligations and ensuring the outcomes required under
29 sections 1 to 43 of this 2021 Act.

30 “(3) Upon approval of the plan or a plan amendment by the de-

1 department, a producer responsibility organization must implement the
2 approved plan or plan amendment.

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

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

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

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

29 **“(c) If the department directs changes to a revised plan or plan**
30 **amendment pursuant to paragraph (b)(A) of this subsection, the pro-**

1 **ducer responsibility organization must implement the changes or re-**
2 **quest a hearing under ORS chapter 183.**

3 **“(d) The department may bring an enforcement action if the de-**
4 **partment requires a second revision pursuant to paragraph (b)(B) of**
5 **this subsection and:**

6 **“(A) The second revision is not timely submitted; or**

7 **“(B) The second revision does not, to the satisfaction of the de-**
8 **partment, comply with the requirements of section 6 of this 2021 Act.**

9 **“(e) If a producer responsibility organization requests a hearing or**
10 **is subject to enforcement pursuant to paragraph (c) or (d) of this**
11 **subsection, the producer responsibility organization shall continue to**
12 **implement a previously approved plan or, if there is no previously ap-**
13 **proved plan in place, implement a plan at the direction of the depart-**
14 **ment until a plan is approved under this section.**

15 **“(2) Before approving, approving with conditions or rejecting a plan**
16 **or plan amendment under this section, the department shall solicit**
17 **feedback on the plan or plan amendment from the Oregon Recycling**
18 **System Advisory Council. The department must make the plan or plan**
19 **amendment available for public comment for a period of not less than**
20 **30 days before approving, approving with conditions or rejecting the**
21 **plan or plan amendment. The department must respond to the**
22 **council’s written recommendations if received within 75 days of the**
23 **date the department transmitted the plan or plan amendment to the**
24 **council.**

25 **“(3) A plan approved by the department under this section is valid**
26 **for three years. The department’s rejection of a plan or plan amend-**
27 **ment submitted for approval under this section does not relieve the**
28 **producer responsibility organization from continuing to implement the**
29 **producer responsibility program in compliance with the approved plan**
30 **pending a final action by the department on the plan amendment.**

1 **“(4) No less than 180 days before a plan approved under this section**
2 **expires, a producer responsibility organization shall submit a plan to**
3 **be approved under this section for an additional four years. A plan**
4 **submitted for approval under this subsection must satisfy the re-**
5 **quirements of section 6 of this 2021 Act and describe any substantive**
6 **changes from the previously approved plan. Until a plan submitted**
7 **under this subsection is approved, the previously approved plan re-**
8 **mains in effect.**

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

10 **“Sec. 7.** (1)(a) The Department of Environmental Quality shall approve,
11 approve with conditions or reject a plan submitted under section 6 this 2021
12 Act or an amendment to a plan submitted under section 10 of this 2021 Act
13 no later than 120 days after the date on which the department receives the
14 plan or plan amendment from the producer responsibility organization. The
15 department shall approve a plan or a plan amendment if the department de-
16 termines to the satisfaction of the department that the plan or plan amend-
17 ment complies with the requirements of section 6 of this 2021 Act. If the
18 department rejects the plan or plan amendment, the department shall provide
19 in writing the reason for the rejection.

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

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

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

4 “(c) If the department directs changes to a revised plan or plan amend-
5 ment pursuant to paragraph (b)(A) of this subsection, the producer responsi-
6 bility organization must implement the changes or request a hearing under
7 ORS chapter 183.

8 “(d) The department may bring an enforcement action if the department
9 requires a second revision pursuant to paragraph (b)(B) of this subsection
10 and:

11 “(A) The second revision is not timely submitted; or

12 “(B) The second revision does not, to the satisfaction of the department,
13 comply with the requirements of section 6 of this 2021 Act.

14 “(e) If a producer responsibility organization requests a hearing or is
15 subject to enforcement pursuant to paragraph (c) or (d) of this subsection,
16 the producer responsibility organization shall continue to implement a pre-
17 viously approved plan or, if there is no previously approved plan in place,
18 implement a plan at the direction of the department until a plan is approved
19 under this section.

20 “(2) Before approving, approving with conditions or rejecting a plan or
21 plan amendment under this section, the department shall solicit feedback on
22 the plan or plan amendment from the Oregon Recycling System Advisory
23 Council. The department must make the plan or plan amendment available
24 for public comment for a period of not less than 30 days before approving,
25 approving with conditions or rejecting the plan or plan amendment. The de-
26 partment must respond to the council’s written recommendations if received
27 within 75 days of the date the department transmitted the plan or plan
28 amendment to the council.

29 “(2) Before approving, approving with conditions or rejecting a plan or
30 plan amendment under this section, the department shall solicit feedback on

1 the plan or plan amendment from the Oregon Recycling System Advisory
2 Council. The department must make the plan or plan amendment available
3 for public comment for a period of no less than 30 days before approving,
4 approving with conditions or rejecting the plan or plan amendment. The de-
5 partment must respond to the council's written recommendations if received
6 within 75 days of the date the department transmitted the plan or plan
7 amendment to the council.

8 “(3) A plan approved by the department under this section is valid for
9 [three] **five** years. The department's rejection of a plan or plan amendment
10 submitted for approval under this section does not relieve the producer re-
11 sponsibility organization from continuing to implement the producer respon-
12 sibility program in compliance with the approved plan pending a final action
13 by the department on the plan amendment.

14 “(4) No less than 180 days before a plan approved under this section ex-
15 pires, a producer responsibility organization shall submit a plan to be ap-
16 proved under this section for an additional [four] **five** years. A plan
17 submitted for approval under this subsection must satisfy the requirements
18 of section 6 of this 2021 Act and describe any substantive changes from the
19 previously approved plan. Until a plan submitted under this subsection is
20 approved, the previously approved plan remains in effect.

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

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

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

26 **“(a) When proposing to change an approved producer responsibility**
27 **program plan as it relates to the producer responsibility organization's**
28 **obligations:**

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

1 **“(B) Under section 16 of this 2021 Act; or**

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

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

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

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

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

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

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

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

15 **“(2) Not less than once per calendar quarter, a producer responsi-**
16 **bility organization shall provide written notice to the department and**
17 **the Oregon Recycling System Advisory Council of any changes made**
18 **during the previous month to a producer responsibility program plan**
19 **that are changes for which an amendment is not required under sub-**
20 **section (1) of this section.**

21 **“SECTION 11. Membership fees charged by producer responsibility**
22 **organization. (1) A producer responsibility organization shall establish**
23 **a schedule of membership fees to be paid by members of the organ-**
24 **ization. Membership fees established pursuant to this section must be**
25 **sufficient to meet the financial obligations of the organization under**
26 **sections 1 to 43 of this 2021 Act. Membership fees must be designed to**
27 **differentiate between types of covered products, and the materials and**
28 **formats that comprise those covered products. Membership fees**
29 **charged for different covered product types, materials and formats**
30 **must be proportional to the costs to the producer responsibility or-**

1 **ganization for that covered product type, material or format.**

2 **“(2) A schedule established under this section must establish**
3 **material-specific base fee rates for all covered products sold or dis-**
4 **tributed in or into this state by a member of the producer responsi-**
5 **bility organization. The base fee paid by each producer member shall**
6 **be calculated by multiplying the material-specific base fee rate by the**
7 **total amount of covered products of each material sold or distributed**
8 **by the producer in or into this state.**

9 **“(3) Covered products sold or distributed in or into this state that**
10 **are not accepted by recycling collection programs in this state must**
11 **be assessed base fee rates that on average are higher than the average**
12 **for covered products that are accepted by recycling collection pro-**
13 **grams in this state and must be assessed fees that are approximately**
14 **proportional to their relative contribution to the financial obligations**
15 **of the producer responsibility organization.**

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

28 **“(a) The post-consumer content of the material, if the use of post**
29 **consumer content in the covered product is not prohibited by federal**
30 **law;**

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**
8 **membership fee structure. The department may approve an alternative**
9 **membership fee structure if the department determines that the**
10 **structure:**

11 **“(a) Satisfies the requirements of subsection (1) of this section; and**
12 **“(b) Provides incentives to members to change the way the mem-**
13 **bers produce, use and market materials in order to reduce environ-**
14 **mental impacts.**

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

21 **“(7) A producer responsibility organization shall accept the value**
22 **of print and online advertising services in lieu of all or a portion of a**
23 **membership fee described in this section from members that are**
24 **newspaper or magazine publishers. The producer responsibility organ-**
25 **ization may consider the in-state reach of the advertising when de-**
26 **termining the value of the advertising.**

27 **“SECTION 12. Annual report. (1) No later than July 1 of each year,**
28 **a producer responsibility organization must submit to the Department**
29 **of Environmental Quality for approval by the department an annual**
30 **report on the development, implementation and operation of the pro-**

1 **ducer responsibility program. The annual report must:**

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

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

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

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

8 **“(a) A list of the producers that participated in the producer re-**
9 **sponsibility program;**

10 **“(b) A list of any producers found to be out of compliance with the**
11 **producer responsibility program plan and steps taken to bring those**
12 **producers into compliance;**

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

16 **“(d) A description of the producer responsibility organization’s ef-**
17 **forts, including efforts involving processors, to ensure that the col-**
18 **lected covered products were responsibly managed and delivered to**
19 **responsible end markets;**

20 **“(e) A complete accounting and summary of payments requested**
21 **by local governments and local governments’ service providers and**
22 **paid by the producer responsibility organization under section 13 of**
23 **this 2021 Act;**

24 **“(f) A description of all expansions and improvements to recycling**
25 **collection systems that have been paid for by the producer responsi-**
26 **bility organization, whether those expansions or improvements have**
27 **been implemented, the funds provided for such expansions and im-**
28 **provements, and what collection programs are still scheduled for ex-**
29 **pansions or improvements in the remaining duration of the producer**
30 **responsibility program plan;**

1 “(g) A summary of payments paid by the producer responsibility
2 organization under sections 24 and 25 of this 2021 Act;

3 “(h) A summary of payments requested by local governments or
4 local governments’ service providers that were denied or reduced by
5 the producer responsibility organization;

6 “(i) A summary of all other payments made to satisfy the producer
7 responsibility organization’s obligations under sections 1 to 43 of this
8 2021 Act, including but not limited to payments made to support re-
9 sponsible recycling of specifically identified materials, as described in
10 section 23 of this 2021 Act;

11 “(j) A summary of the financial status of the producer responsibil-
12 ity organization, including annual expenditures, revenues and assets;

13 “(k)(A) The membership fee schedule described in section 11 of this
14 2021 Act;

15 “(B) The fees collected pursuant to the membership fee schedule for
16 the reporting year; and

17 “(C) A description of how the current membership fee schedule
18 meets the requirements of section 11 of this 2021 Act;

19 “(L) A description of activities undertaken by the producer respon-
20 sibility organization that relate to the requirements of section 16 of
21 this 2021 Act, including an accounting of expenditures;

22 “(m) A description of activities undertaken by the producer re-
23 sponsibility organization that relate to the uniform statewide col-
24 lection list and the specifically identified materials list;

25 “(n) An assessment of whether the organization has met collection
26 targets, convenience standards and performance standards established
27 by the Environmental Quality Commission under section 22 of this 2021
28 Act and efforts planned to meet or continue meeting such targets and
29 standards;

30 “(o) A summary of efforts taken by the producer responsibility or-

1 **ganization to meet the statewide plastic recycling goal established**
2 **under section 27 of this 2021 Act and efforts planned to maintain per-**
3 **formance in meeting the goal or, if the goal has not been met, efforts**
4 **planned to meet the goal;**

5 **“(p) The results of any in-person site inspections, material tracking**
6 **or other audits conducted during the reporting year, including whether**
7 **any major safety or environmental management practices were not**
8 **properly followed and, if so, the corrective actions taken;**

9 **“(q) Recommendations for any changes to the producer responsi-**
10 **bility organization’s plan to improve recovery and recycling;**

11 **“(r) A summary of the quarterly reports described in subsection (6)**
12 **of this section and an evaluation of the adequacy of responsible end**
13 **markets;**

14 **“(s) A summary of actions actually taken or planned by the organ-**
15 **ization to improve responsible end markets, processing infrastructure**
16 **or the resiliency of the producer responsibility program;**

17 **“(t) A summary of efforts taken to implement recommendations to**
18 **improve equity in the recycling system identified in a report under**
19 **section 29 of this 2021 Act;**

20 **“(u) The number of producers that received each type of member-**
21 **ship fee adjustment offered under section 11 of this 2021 Act and the**
22 **amount of covered products, by material and format, for which pro-**
23 **ducers received each type of adjustment;**

24 **“(v) An evaluation of the effectiveness of membership fee adjust-**
25 **ments at encouraging producers to reduce the environmental and hu-**
26 **man health impacts of covered products, with relation to the factors**
27 **and criteria used by the producer responsibility organization’s mem-**
28 **bership fee structure;**

29 **“(w) An evaluation of the producer responsibility organization’s**
30 **compliance with sections 1 to 43 of this 2021 Act and, if necessary,**

1 actions that will be taken to achieve compliance;

2 “(x) A report by an independent certified public accountant, re-
3 tained by the producer responsibility organization at the
4 organization’s expense, on the accountant’s audit of the organization’s
5 financial statements;

6 “(y) The results of any nonfinancial audits or assessments measur-
7 ing performance or outcomes;

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

11 “(aa) Any other information required by the department.

12 “(3)(a) A producer responsibility organization shall include in a re-
13 port submitted under this section a confidential addendum containing
14 information on the membership fees paid to the producer responsibil-
15 ity organization by individual members and information that can be
16 used to calculate the market share of individual members in accord-
17 ance with rules adopted by the commission under section 4 of this 2021
18 Act. Information included in the confidential addendum is not subject
19 to public disclosure under ORS 192.311 to 192.478, except that the de-
20 partment may disclose summarized information or aggregated data if
21 the information or data do not directly or indirectly identify the
22 amount of membership fees paid by any individual producer.

23 “(b) The report must also aggregate and summarize the information
24 described in paragraph (a) of this subsection in a manner that does
25 not directly or indirectly identify the amount of membership fees paid
26 by any individual producer.

27 “(4) The department shall review reports submitted under this sec-
28 tion and solicit feedback on each report from the Oregon Recycling
29 System Advisory Council. The department shall make each report
30 available for public comment for a period of not less than 30 days. The

1 department shall submit the comments of the department, the council
2 and the public to the producer responsibility organization. The de-
3 partment shall approve reports that meet the requirements of this
4 section to the satisfaction of the department.

5 “(5)(a) If the department does not approve a report under sub-
6 section (4) of this section, the department must provide the producer
7 responsibility organization with written notice of revisions necessary
8 for approval and the timeline for resubmittal.

9 “(b) The department may bring an enforcement action if:

10 “(A) The revised report required under paragraph (a) of this sub-
11 section is not timely submitted; or

12 “(B) The revised report does not meet the requirements of this
13 section to the satisfaction of the department.

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

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

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

21 “(c) A description of any disposition that does not meet the stan-
22 dards described in section 15 (2) of this 2021 Act; and

23 “(d) The amount of materials processed and the final disposition by
24 weight or volume of all materials, including materials that were not
25 used by the end markets.

26 “SECTION 13. Compensation to local governments and local gov-
27 ernment service providers. (1) A producer responsibility organization
28 shall, upon request, fund in advance or reimburse, as appropriate, the
29 eligible expenses of a local government or the local government’s ser-
30 vice provider for eligible costs as provided in this section.

1 “(2)(a) The costs of transporting covered products from a recycling
2 depot or recycling reload facility to a commingled recycling processing
3 facility or a responsible end market, including the cost to receive,
4 consolidate, load and transport covered products, are eligible costs for
5 funding or reimbursement by a producer responsibility organization.

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

7 “(A) The transport of covered products directly from a generator
8 to a recycling processing facility or a responsible end market.

9 “(B) The transport of covered products from a recycling depot if the
10 recycling depot is not designated or authorized by a local government
11 as part of the recycling program operated by the local government or
12 the local government’s service provider.

13 “(C) The proportion of a shipment of recyclable material that is not
14 covered products.

15 “(D) The transport of covered products for distances greater than
16 the distance to the closest commingled recycling processing facility
17 or responsible end market with capacity to accept the covered pro-
18 ducts.

19 “(E) The transport of covered products for a de minimis distance,
20 as established by the Environmental Quality Commission by rule.

21 “(c) The commission shall establish by rule methods for determin-
22 ing funding or reimbursement amounts under this subsection. Meth-
23 ods may include payments based on zones and must account for
24 proximity to an appropriate commingled recycling processing facility
25 or responsible end market that has capacity to process or recycle the
26 material and other factors that could affect transportation costs.

27 “(3) The costs of periodically evaluating the quality and contam-
28 ination of collected materials as required by section 28 of this 2021 Act,
29 if the evaluation occurs at a location other than a commingled recy-
30 cling processing facility, are eligible costs for funding or reimburse-

1 **ment by a producer responsibility organization.**

2 **“(4)(a) The costs of contamination reduction programming for res-**
3 **idential and commercial customers required by section 28 of this 2021**
4 **Act and the cost of similar contamination reduction programming**
5 **provided by local governments not subject to the requirements of**
6 **section 28 of this 2021 Act are eligible costs for funding or reimburse-**
7 **ment by a producer responsibility organization.**

8 **“(b) The commission shall establish by rule methods for determin-**
9 **ing funding or reimbursement amounts under this subsection. Rules**
10 **adopted under this subsection may not require producer responsibility**
11 **organizations to provide funding or reimbursement of more than \$3**
12 **per capita per year, based on the population of a local government or,**
13 **if the local government is a county, the population of the**
14 **unincorporated area of the county.**

15 **“(5)(a) The costs of upgrading or establishing recycling at multi-**
16 **family facilities to meet the requirements of ORS 90.318 and recom-**
17 **mendations of the study under section 30 of this 2021 Act are eligible**
18 **costs for funding or reimbursement by a producer responsibility or-**
19 **ganization.**

20 **“(b) A producer responsibility organization shall work with local**
21 **governments, collection service providers and other affected parties**
22 **as provided in this subsection to provide recycling service to multi-**
23 **family properties that do not receive recycling service or that do not**
24 **meet standards for adequate recycling service.**

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

26 **“(A) Eligible costs under this subsection, including:**

27 **“(i) Site improvements such as site preparation and construction**
28 **of recycling enclosures; and**

29 **“(ii) Containers, signage and initial education and promotion ma-**
30 **terials; and**

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

3 **“(d) Subject to approval by the local government in consultation**
4 **with the local collection service provider, a producer responsibility**
5 **organization may directly fund partially fund, or reimburse the prop-**
6 **erty owner or manager of multifamily housing properties for activities**
7 **described in paragraph (c)(A)(i) of this subsection.**

8 **“(e) Producer responsibility organizations will be required to expend**
9 **in Oregon no more than \$5 million per year, in the aggregate, on**
10 **multifamily housing property site improvements as described in para-**
11 **graph (c)(A)(i) of this subsection. Funding for site improvements shall**
12 **be directed to multifamily housing properties that are located in low-**
13 **income areas or provide housing to tenants, the majority of whom are**
14 **low-income.**

15 **“(6)(a) Costs associated with the expansion and provision of recycl-**
16 **ing collection services for covered products as provided in this sub-**
17 **section are eligible costs for funding or reimbursement by a producer**
18 **responsibility organization.**

19 **“(b) A local government that commits to expanding recycling op-**
20 **portunities during the needs assessment conducted under subsection**
21 **(9) of this section is eligible for funding or reimbursements under this**
22 **subsection. A producer responsibility organization shall work with lo-**
23 **cal governments to determine the services the local government is**
24 **requesting and the schedule by which the new program will be imple-**
25 **mented, and shall provide funding for the new programs in advance**
26 **of or concurrent with implementation.**

27 **“(c) A producer responsibility organization shall provide funding for**
28 **activities requested by local governments through the periodic needs**
29 **assessment under subsection (9) of this section.**

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

1 “(A) For on-route programs, start-up costs, including but not lim-
2 ited to trucks, containers, promotional literature and, if necessary and
3 none other is available, a recycling reload facility for reloading
4 recyclables, including any compaction equipment necessary for the
5 recycling reload facility; and

6 “(B) For recycling depots, containers, on-site monitoring equip-
7 ment, site preparation or other start-up costs and operational costs,
8 including staffing.

9 “(7) The costs of complying with section 21 of this 2021 Act, to the
10 extent that the use of post-consumer recycled material is more ex-
11 pensive than the lowest priced alternative, are eligible costs for fund-
12 ing or reimbursement by a producer responsibility organization.

13 “(8) The costs associated with other recycling system improvements
14 for covered products as determined by the commission by rule are el-
15 igible costs for funding or reimbursement by a producer responsibility
16 organization.

17 “(9)(a) The Department of Environmental Quality shall conduct a
18 statewide needs assessment in partnership with local governments and
19 local governments’ service providers to determine local interest in
20 expanding collection options and recycling depots in areas not served
21 with those collection opportunities, provided that funds are made
22 available to the local programs for expansion.

23 “(b) The needs assessment shall include a process for local govern-
24 ments to request services and commit to providing additional services.

25 “(c) The department shall periodically repeat the assessment and
26 may conform the timing of the assessment to coincide with the
27 schedule for producer responsibility organizations to submit new pro-
28 ducer responsibility program plans.

29 “(10) A local government or local government’s service provider
30 requesting reimbursement under this section shall submit an ac-

1 counting of its costs to a producer responsibility organization.

2 “(11) A producer responsibility organization shall remit payment for
3 expenses under this section to a local government or the local
4 government’s service provider or other person authorized by the local
5 government to receive payment within 60 days of receiving a request
6 for payment. A producer responsibility organization shall provide
7 written notification to the local government of any payments remitted
8 to a person authorized by the local government to receive payment.

9 “(12)(a) The department may review or audit the cost accounting
10 and reimbursement request records of a producer responsibility or-
11 ganization, a local government or the local government’s service pro-
12 vider that receives payment under this section.

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

19 “(c) Information furnished to the department under paragraph (a)
20 of this subsection may be designated confidential. Information desig-
21 nated confidential is not subject to public disclosure under ORS 192.311
22 to 192.478, except that the department may disclose the information in
23 a summarized or aggregate form.

24 “(13) A local government shall identify to the department the local
25 government’s service providers that are authorized to receive funding
26 or reimbursement directly, as described in this section, from producer
27 responsibility organizations in the periodic report submitted according
28 to the requirements of ORS 459A.050.

29 “(14) A local government, local government’s service provider or
30 multifamily property owner or manager that has received funds for

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

10 “(15) The disposal of covered products by means of landfilling or
11 incineration may not be an eligible cost for funding or reimbursement
12 by a producer responsibility organization under this section.

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

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

21 “(b) Requirements to properly prepare materials for recycling;

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

24 “(d) Container signs or decals.

25 “(2) A producer responsibility organization must provide opportu-
26 nities for local governments and local governments’ service providers
27 to review and comment on draft materials developed under this sec-
28 tion.

29 “(3) Educational resources and campaigns developed under this
30 section must be:

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

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

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

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

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

17 “(6) A local government that provides the opportunity to recycle
18 or the local government’s service provider shall utilize and distribute
19 educational resources developed under this section. A local govern-
20 ment or the local government’s service provider may incorporate the
21 educational resources developed under this section into an existing
22 education program developed to satisfy the requirements of ORS
23 459A.007 and 459A.008.

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

29 “(8)(a) Except as provided in paragraph (b) of this subsection, edu-
30 cational resources and campaigns developed under this section must

1 be reviewed by the council and approved by the Department of Envi-
2 ronmental Quality before public distribution.

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

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

10 **“SECTION 15. Other duties of producer responsibility organization.**

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

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

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

21 “(c) Establishing and operating collection events for the covered
22 product; or

23 “(d) Making other arrangements for the collection of the covered
24 product as described in a producer responsibility program plan.

25 “(2) A producer responsibility organization shall, to the extent
26 practicable, ensure that covered products collected in this state for the
27 purpose of recovery and described in section 4 (7) of this 2021 Act will
28 be:

29 “(a) Delivered to responsible end markets;

30 “(b) Managed according to the hierarchy of materials management

1 options under ORS 459.015 (2); and

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

4 “(3) A producer responsibility organization may not take possession
5 of covered products from a processor for any purpose without the
6 written consent of the processor.

7 **“SECTION 16. Litter and marine debris cleanup and prevention**
8 **program.** (1) No later than July 1, 2028, a producer responsibility or-
9 ganization shall establish and implement a program to clean up and
10 prevent litter and marine debris. A producer responsibility
11 organization’s litter prevention program shall provide grants or direct
12 payments to eligible entities to carry out litter and marine debris
13 prevention, cleanup and research. A producer responsibility organiza-
14 tion must incorporate into a program the findings of the needs as-
15 sessment conducted under subsection (5) of this section. Entities
16 eligible for a grant include, but are not limited to:

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

18 “(b) Tribal governments; and

19 “(c) Nonprofit organizations.

20 “(2) Producer responsibility organizations shall expend in Oregon
21 \$10 million per year, in the aggregate, for grants, direct payments and
22 research, including research on litter and marine debris composition
23 and control.

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

27 “(4)(a) Expenditures under subsection (2) of this section:

28 “(A) Must be prioritized according to rules adopted by the Envi-
29 ronmental Quality Commission;

30 “(B) Must be limited to activities related to covered products; and

1 **“(C) May not be for:**

2 **“(i) Street sweeping;**

3 **“(ii) Major dumpsite cleanup; or**

4 **“(iii) Cleanup of homeless camps, except to the extent that the**
5 **cleanup involves covered products that have escaped the footprint of**
6 **the site.**

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

10 **“(5)(a) The Department of Environmental Quality shall conduct a**
11 **statewide needs assessment to identify general locations where litter**
12 **prevention and cleanup of covered products is needed and the extent**
13 **to which litter prevention and cleanup is needed.**

14 **“(b) The department shall provide a written report on its findings**
15 **under paragraph (a) of this subsection in the manner provided by ORS**
16 **192.245 to the interim committees of the Legislative Assembly related**
17 **to the environment. The report must include recommendations for**
18 **whether programs established under this section should be continued,**
19 **revised or discontinued.**

20 **“(c) The department shall repeat the needs assessment and report**
21 **described in paragraphs (a) and (b) of this subsection every six years**
22 **and may conform the timing of the assessment to coincide with the**
23 **schedule for producer responsibility organizations to submit new pro-**
24 **ducer responsibility program plans.**

25 **“(6) Beginning July 1, 2030, the commission shall annually adjust**
26 **the minimum expenditure amount specified in subsection (2) of this**
27 **section by multiplying the amount by the percentage change in the**
28 **monthly averaged Consumer Price Index for All Urban Consumers,**
29 **West Region (All Items), as published by the Bureau of Labor Statis-**
30 **tics of the United States Department of Labor, for the 12 consecutive**

1 months ending on the immediately preceding June 30 compared to the
2 monthly averaged Consumer Price Index for All Urban Consumers,
3 West Region (All Items), for the 12 consecutive months ending on June
4 30, 2029.

5
6 **“(Oregon Recycling System Advisory Council)**

7
8 **“SECTION 17. Oregon Recycling System Advisory Council estab-**
9 **lished. (1) The Oregon Recycling System Advisory Council is estab-**
10 **lished.**

11 **“(2)(a) The council consists of 17 members appointed by the Gover-**
12 **nor as follows:**

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

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

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

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

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

21 **“(F) Four representatives of producers of covered products or pro-**
22 **ducer trade associations or suppliers. Any members appointed to the**
23 **council that are producers of covered products shall belong to a pro-**
24 **ducer responsibility organization and represent different industries.**

25 **“(b) The Governor shall appoint members that reflect the ge-**
26 **ographic diversity of this state and the interests of both large and**
27 **small communities.**

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

30 **“(b) Before the expiration of the term of a member, the Governor**

1 shall appoint a successor whose term begins on July 1 following the
2 appointment. A member is eligible for reappointment.

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

6 “(4) A majority of the members of the council constitutes a quo-
7 rum.

8 “(5) The council shall elect one of its members to serve as chair-
9 person and another to serve as vice chairperson, for the terms and
10 with the duties and powers necessary for the performance of the
11 functions of such offices as the council determines. The chairperson
12 and vice chairperson may not both be members appointed under the
13 same subparagraph of subsection (2)(a)(A) to (F) of this section.

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

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

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

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

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

1 “(a) Review activities related to sections 1 to 43 of this 2021 Act;

2 “(b) Advise the Department of Environmental Quality and producer
3 responsibility organizations on issues related to the implementation
4 of sections 1 to 43 of this 2021 Act;

5 “(c) Review producer responsibility program plans submitted under
6 section 6 of this 2021 Act, plan amendments submitted under section
7 10 of this 2021 Act and program reports submitted under section 12 of
8 this 2021 Act;

9 “(d) Make recommendations to the department and producer re-
10 sponsibility organizations related to the establishment and mainte-
11 nance of the list of specifically identified materials;

12 “(e) Make recommendations to the department and producer re-
13 sponsibility organizations about any other material that should not
14 be included as a covered product; and

15 “(f) Make written recommendations to the department and pro-
16 ducer responsibility organizations on matters that the council deter-
17 mines are beneficial to the public interest, including:

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

21 “(i) Producer membership fee structures described in section 11 of
22 this 2021 Act;

23 “(ii) Recycling depot or mobile collection events for recyclable
24 items; and

25 “(iii) Other aspects of a producer responsibility program intended
26 to improve access to recycling, including access for residents of
27 multifamily housing.

28 “(B) The uniform statewide collection list.

29 “(C) The manner in which producer responsibility organization fees
30 will be distributed to local governments or local governments’ service

1 providers under section 13 of this 2021 Act, including:

2 “(i) Review of statewide transportation, reload reimbursement and
3 other formulaic elements; and

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

6 “(D) Statewide educational resources and campaigns.

7 “(E) The manner in which producer responsibility organization fees
8 will be distributed to processors to improve infrastructure.

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

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

15 “(4) Within 45 days of receiving written recommendations from the
16 council under subsection (1)(d) or (f) of this section, a producer re-
17 sponsibility organization must provide a written response to the
18 council, including reasons why any recommendations were not ac-
19 cepted.

20 “(5) Within 60 days of receipt of written recommendations provided
21 under subsection (1)(d) or (f) of this section, the department shall
22 provide a written response to the council, including reasons why any
23 recommendations were not accepted.

24

25 “(Responsibilities of Local Governments)

26

27 **“SECTION 19. Prohibition on delivery of commingled recyclables to**
28 **certain facilities.** (1) As used in this section, ‘commingled recycling
29 reload facility’ means a facility that receives commingled recyclables
30 collected by a local government or local government’s service provider

1 as an intermediate step prior to delivery to a commingled recycling
2 processing facility.

3 “(2) A local government, the local government’s service provider
4 or a commingled recycling reload facility may not deliver to a
5 commingled recycling processing facility commingled recyclables that
6 were collected pursuant to the uniform statewide collection list es-
7 tablished under section 22 of this 2021 Act unless:

8 “(a) At the time the local government, the local government’s ser-
9 vice provider or the commingled recycling reload facility delivered or
10 contracted to deliver or transport materials to the commingled recy-
11 cling facility:

12 “(A) The commingled recycling facility held a valid permit issued
13 under section 37 of this 2021 Act; or

14 “(B) For a commingled recycling facility located outside of this
15 state:

16 “(i) The facility held a valid certificate issued under section 38 of
17 this 2021 Act; or

18 “(ii) The facility certified that it otherwise met the requirements
19 of section 37 or 38 of this 2021 Act, even though the facility did not
20 hold a permit or certificate.

21 “(b) Within six months after the Department of Environmental
22 Quality completes a report under section 29 of this 2021 Act, the
23 commingled recycling processing facility has taken steps to implement
24 any recommendations of the report related to providing opportunities
25 in the recycling industry for women and minority individuals as de-
26 fined in ORS 200.005.

27 **“SECTION 19a.** Section 19 of this 2021 Act is amended to read:

28 **Sec. 19.** (1) As used in this section, ‘commingled recycling reload
29 facility’ means a facility that receives commingled recyclables collected by
30 a local government or local government’s service provider as an intermediate

1 step prior to delivery to a commingled recycling processing facility.

2 “(2) A local government, the local government’s service provider or a
3 commingled recycling reload facility may not deliver to a commingled recycling
4 processing facility commingled recyclables that were collected pursuant
5 to the uniform statewide collection list established under section 22 of this
6 2021 Act unless:

7 “(a) At the time the local government, the local government’s service
8 provider or the commingled recycling reload facility delivered or contracted
9 to deliver or transport materials to the commingled recycling facility:

10 “(A) The commingled recycling facility held a valid permit issued under
11 section 37 of this 2021 Act; or

12 “(B) For a commingled recycling facility located outside of this state:

13 “(i) The facility held a valid certificate issued under section 38 of this
14 2021 Act; or

15 “(ii) The facility certified that it otherwise met the requirements of section
16 37 or 38 of this 2021 Act, even though the facility did not hold a permit
17 or certificate.

18 **“(b) The processor ensures the health, safety and wellness of
19 workers at the facility regardless of whether the workers are employees,
20 independent contractors or employees of another business.**

21 **“(c) The processor provides workers at the facility with a living
22 wage and supportive benefits, as defined by the rule by the Environmental
23 Quality Commission.**

24 “[*b*] (d) Within six months after the Department of Environmental
25 Quality completes a report under section 29 of this 2021 Act, the commingled
26 recycling processing facility has taken steps to implement any recommendations
27 of the report related to providing opportunities in the recycling industry
28 for women and minority individuals as defined in ORS 200.005.

29 **“SECTION 20. Other duties of local governments. A local government
30 providing the opportunity to recycle must, for the recycling**

1 collection of materials identified on the uniform statewide collection
2 list at multifamily properties:

3 “(1) Ensure adequate space for collection.

4 “(2) Demonstrate a plan to ensure adequate space and access for
5 collection vehicles after new construction or significant remodels.

6 “(3) Update or establish service standards for service providers to
7 provide adequate service volume or collection frequency, or a combi-
8 nation of both.

9 “(4) Ensure that container placement is accessible to residents, in-
10 cluding children and individuals who use a wheelchair.

11 “(5) Report on activities to meet the requirements of this section
12 in the periodic report submitted according to the requirements of ORS
13 459A.050.

14 **“SECTION 21. Roll carts.** A local government shall ensure that roll
15 carts, bins and containers purchased by the local government’s service
16 providers are manufactured from at least 10 percent post-consumer
17 recycled material and are certified by an independent verification
18 standard, such as the Postconsumer Resin Certification Program es-
19 tablished by the Association of Plastic Recyclers.

20

21 “(Responsibilities of the Environmental Quality Commission
22 and the Department of Environmental Quality)

23

24 **“SECTION 22. Uniform statewide collection list.** (1) The Environ-
25 mental Quality Commission, in consultation with producer responsi-
26 bility organizations and the Oregon Recycling System Advisory
27 Council, shall by rule identify materials that are suitable for recycling
28 collection in this state and the methods for collection of those mate-
29 rials. Rules adopted under this subsection must distinguish between:

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

1 **“(b) Covered products of which a producer responsibility organiza-**
2 **tion must provide for the collection through depot or mobile collection**
3 **events as provided in section 15 of this 2021 Act.**

4 **“(2) When identifying materials and collection methods under sub-**
5 **section (1)(a) of this section, the same material may be collected via**
6 **on-route collection or at recycling depots in different geographic**
7 **areas, as determined by local governments consistent with the re-**
8 **quirements of ORS 459A.005 and 459A.007.**

9 **“(3) In determining whether a material should be included in a**
10 **commingled recycling program for the uniform statewide collection**
11 **list, collected separately, collected on-route or collected at a recycling**
12 **depot, or whether a covered product should be collected by a producer**
13 **responsibility organization under subsection (1)(b) of this section, the**
14 **commission shall consider:**

15 **“(a) The stability, maturity, accessibility and viability of responsible**
16 **end markets;**

17 **“(b) Environmental health and safety considerations;**

18 **“(c) The anticipated yield loss for the material during the recycling**
19 **process;**

20 **“(d) The material’s compatibility with existing recycling**
21 **infrastructure;**

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

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

24 **“(g) Contamination;**

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

27 **“(i) Economic factors;**

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

29 **“(k) The policy expressed in ORS 459.015 (2)(a) to (c).**

30 **“(4) The Department of Environmental Quality shall establish and**

1 maintain a uniform statewide collection list of materials that are ap-
2 propriate to be collected through a commingled recycling program.
3 The list established under this subsection must include:

4 “(a) The materials identified by the commission as suitable for
5 commingled recycling under subsections (1)(a) and (2) of this section;
6 and

7 “(b) Covered products if any, proposed by a producer responsibility
8 organization for addition to the uniform statewide collection list in a
9 producer responsibility program plan or plan amendment and approved
10 by the department under section 7 of this 2021 Act.

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

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

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

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

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

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

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

29 “(2) In determining whether a covered product is a specifically
30 identified material, the department shall consider criteria that include,

1 but need not be limited to:

2 “(a) Whether recycling processing equipment improvements are
3 needed to sort the material and when producer responsibility organ-
4 izations will fund those improvements;

5 “(b) The availability of viable responsible end markets for the ma-
6 terial;

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

8 “(d) Whether the inclusion of the covered product in recycling col-
9 lection programs could cause an increase in costs.

10 **SECTION 24. Contamination management fee.** (1) The Environ-
11 mental Quality Commission shall by rule adopt and periodically revise
12 a contamination management fee to be paid by producer responsibility
13 organizations to commingled recycling processing facilities to com-
14 pensate the facilities for the costs of removing and disposing covered
15 products that are contaminants. The amount of the fee shall be based
16 on the result of the study conducted under subsection (2) of this sec-
17 tion. Rules adopted under this section must:

18 “(a) Provide that payment of the fee may not be required more
19 frequently than once per month and must be paid within 45 days of a
20 request for payment;

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

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

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

28 “(a) Estimate the cost to commingled recycling processing facilities
29 of removing and disposing of covered products that are contaminants,
30 reported as the cost per ton of covered products; and

1 “(b) Estimate the costs to commingled recycling processing facili-
2 ties of removing and disposing of all contaminants, reported as the
3 cost per ton of all contaminants.

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

8 “(4) Any proprietary information provided to the department under
9 subsection (1) of this section or to a person conducting a study under
10 subsection (2) of this section may be designated confidential by a
11 commingled recycling processing facility. Information designated
12 confidential is not subject to public disclosure under ORS 192.311 to
13 192.478, except that information may be disclosed as summarized or
14 aggregated data if doing so does not directly or indirectly disclose the
15 proprietary information of any specific facility.

16 “(5) The department shall review the contamination management
17 fee at least once every five years. The department may not review the
18 contamination management fee more frequently than once per year.

19 “SECTION 25. Processor commodity risk fee. (1) As used in this
20 section:

21 “(a) ‘Anticipated program cost’ means all additional costs related
22 to any new requirements of this 2021 Act that are anticipated prior to
23 the next review of the processor commodity risk fee under subsection
24 (6) of this section.

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

29 “(c)(A) ‘Eligible processing cost’ means all costs associated with
30 owning and operating a commingled recycling processing facility as

1 **determined by the study conducted under subsection (3) of this sec-**
2 **tion, including but not limited to sorting, handling, storing, disposal,**
3 **marketing and shipping, administration, rent, fees, depreciation, fixed**
4 **costs, profit, the target price paid for commingled recycling collected**
5 **from Oregon as described in subsection (2)(d) of this section and an-**
6 **ticipated program costs.**

7 **“(B) ‘Eligible processing cost’ does not include revenue from the**
8 **sale of recyclables and any costs that are reimbursed by producer re-**
9 **sponsibility organizations or other parties, including the contam-**
10 **ination management fee established under section 24 of this 2021 Act.**

11 **“(2) The Environmental Quality Commission shall by rule adopt and**
12 **periodically revise a processor commodity risk fee to be paid by pro-**
13 **ducer responsibility organizations to commingled recycling processing**
14 **facilities to ensure that producers share in the costs of fully processing**
15 **commingled recyclables that are covered products and to allow local**
16 **governments to reduce the financial impacts on ratepayers. The**
17 **processor commodity risk fee shall be based on the eligible processing**
18 **costs of facilities less the average commodity value of recyclable ma-**
19 **terials processed by facilities. Rules adopted under this section must:**

20 **“(a) Provide that payment of the fee may not be required more**
21 **frequently than once per month and must be paid within 45 days of a**
22 **request for payment.**

23 **“(b) Provide that the fee may not be based on commingled recycling**
24 **originating outside of Oregon.**

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

27 **“(d) For purposes of calculating the processor commodity risk fee,**
28 **allow the average compensation paid by commingled recycling pro-**
29 **cessing facilities for commingled recyclables collected from Oregon to**
30 **target a price of \$10 per ton, expressed on the basis of compensation**

1 per ton of delivered material.

2 “(e) Provide that the fee is to be paid on the basis of recyclable
3 material received by or sold from a commingled recycling processing
4 facility.

5 “(f) Ensure that materials handled by more than one commingled
6 recycling processing facility are not double counted for purposes of
7 calculating the fee.

8 “(g) Allow local governments to protect ratepayers from cost in-
9 creases associated with the volatility of commodity markets.

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

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

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

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

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

23 “(a) Estimate the average eligible processing cost at commingled
24 recycling facilities that process commingled recycling generated in
25 Oregon; and

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

28 “(4) A commingled recycling facility that does not participate in the
29 review process described in subsection (2) of this section or the study
30 described in subsection (3) of this section is not eligible to receive a

1 processor commodity risk fee.

2 “(5) Any proprietary information provided to the department under
3 subsection (2) of this section or to a person conducting a study under
4 subsection (3) of this section may be designated confidential by a
5 commingled recycling processing facility. Information designated
6 confidential is not subject to public disclosure under ORS 192.311 to
7 192.478, except that information may be disclosed as summarized or
8 aggregated data if doing so does not directly or indirectly disclose the
9 proprietary information of any specific facility.

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

18 **“SECTION 26.** (1) The Department of Environmental Quality shall
19 study the compostability of covered products and the effects of covered
20 products on composting systems. In conducting the study, the de-
21 partment shall:

22 “(a) Examine the effects of covered products on compost facilities
23 and finished compost;

24 “(b) Consider trends, challenges, opportunities and relevant policies
25 relating to composting and covered products;

26 “(c) Consider the experience of compost facilities located in other
27 states; and

28 “(d) Develop recommendations for reducing environmental impacts
29 while maintaining and enhancing the environmental and economic
30 sustainability of Oregon’s compost industry.

1 “(2) In conducting the study, the department shall consult with
2 compost facilities serving Oregon, local governments, producer re-
3 sponsibility organizations serving Oregon and the Oregon Recycling
4 System Advisory Council.

5 “(3) The department shall submit a final report and recommen-
6 dations for legislation in the manner provided by ORS 192.245 to the
7 interim committees of the Legislative Assembly related to the envi-
8 ronment no later than December 15, 2026.

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

10 “(a) ‘Plastic’ means a material composed of synthetic polymers
11 such as polyethylene, polypropylene, polystyrene, polylactic acid and
12 other similar polymers.

13 “(b) ‘Plastic’ does not include materials commonly referred to as
14 rubber or materials that are naturally produced polymers, such as
15 proteins or starches.

16 “(2)(a) It is the goal of the State of Oregon that the statewide re-
17 cycling rate for plastic be:

18 “(A) At least 25 percent by calendar year 2028 and until calendar
19 year 2039;

20 “(B) At least 50 percent by calendar year 2040 and until calendar
21 year 2049; and

22 “(C) At least 70 percent by calendar year 2050 and each subsequent
23 year, unless modified by the Environmental Quality Commission by
24 rule.

25 “(b) Notwithstanding paragraph (a) of this subsection, the commis-
26 sion by rule, on or after January 1, 2038, and after consideration of
27 environmental, technical and economic conditions, may adjust the
28 statewide plastic recycling goal. An adjustment to the statewide plastic
29 recycling goal under this paragraph may not adjust the goal to less
30 than 35 percent or more than 70 percent.

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

4 “(3) The Department of Environmental Quality shall annually de-
5 termine whether the statewide plastic recycling goal established under
6 subsection (2) of this section has been met. The department may re-
7 quire a producer responsibility organization to submit aggregated in-
8 formation necessary for the department to make the determination
9 under this subsection.

10 “(4) If the department determines that the statewide recycling goal
11 has not been met, each producer responsibility organization shall, in
12 the manner provided in section 10 of this 2021 Act, amend an existing
13 producer responsibility program plan or submit a new producer re-
14 sponsibility program plan that includes actions the organization will
15 take to meet the statewide plastic recycling goal.

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

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

22 “(b) Data from the waste composition studies specified in ORS
23 459A.035, combined with data on the total amount of solid waste dis-
24 posed as specified in ORS 459A.010 (3)(a);

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

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

30 “(6) For purposes of determining the recycling rate of plastic, plas-

1 **tic:**

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

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

7 **“SECTION 28. Contamination reduction. (1) The Department of**
8 **Environmental Quality shall:**

9 **“(a) Establish statewide recycling contamination reduction goals.**

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

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

14 **“(A) Customer-facing contamination reduction materials and**
15 **methods that are responsive to the needs of diverse populations;**

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

19 **“(C) Standards for providing financial or service consequences to**
20 **generators that are significant and repeated sources of contamination**
21 **and that continue to contaminate separated recyclables after being**
22 **subject to elements described in subparagraphs (A) and (B) of this**
23 **paragraph. Consequences must be responsive to the conditions of di-**
24 **verse populations.**

25 **“(d) Once every four years:**

26 **“(A) Review and summarize statewide information on contam-**
27 **ination at the point of collection, using data provided in accordance**
28 **with section 39 of this 2021 Act, and revise the statewide recycling**
29 **contamination reduction goals, as appropriate; and**

30 **“(B) Provide a written report in the manner provided by ORS 192.245**

1 to the interim committees of the Legislative Assembly related to the
2 environment. The report must include:

3 “(i) A description of the effectiveness of the contamination re-
4 duction program elements;

5 “(ii) Recommendations to maintain, revise or discontinue programs
6 developed under this section; and

7 “(iii) Recommendations regarding the funding of contamination re-
8 duction programming under section 13 (4) of this 2021 Act.

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

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

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

20 “(c) Includes:

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

23 “(B) Uses materials or methods that are at least as effective as
24 materials or methods approved by the department under subsection
25 (1)(c) of this section.

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

30 “(3) A local government or local government’s service provider may

1 not be required to provide contamination reduction programming un-
2 der this section to the extent that doing so would require the use of
3 funds other than advance funding or reimbursements available under
4 section 13 (4) of this 2021 Act.

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

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

15 **“(b) The availability of opportunities in the recycling system for**
16 **women and minority individuals as defined in ORS 200.005;**

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

19 **“(d) The sufficiency of recycling education programs relative to**
20 **desired equity outcomes; and**

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

23 **“(2)(a) Except as provided in paragraph (b) of this subsection, a**
24 **person operating within the recycling system in this state shall, upon**
25 **request, furnish the department with information necessary for the**
26 **department to meet the requirements of subsection (1)(a) and (b) of**
27 **this section. Proprietary information furnished to the department un-**
28 **der subsection (1)(a) of this section is not subject to public disclosure**
29 **under ORS 192.311 to 192.478, except that the department may disclose**
30 **summarized information or aggregated data if the information or data**

1 do not directly or indirectly identify the proprietary information of
2 any specific person.

3 “(b) Paragraph (a) of this subsection does not apply to any person
4 described in section 2 (3)(b) of this 2021 Act.

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 new producer
19 responsibility program plan or plan amendment describing to the sat-
20 isfaction of the department how it will implement changes to address
21 the approved recommendations of the report as they relate to the
22 producer responsibility organization’s specific recycling system obli-
23 gations.

24 **“SECTION 30. Multifamily housing study. (1) The Department of**
25 **Environmental Quality, in consultation with the Oregon Recycling**
26 **System Advisory Council, shall conduct a statewide needs assessment**
27 **to determine the challenges facing residents of multifamily housing**
28 **and make recommendations for improvements to allow for effective**
29 **and equitable recycling opportunities for residents of multifamily**
30 **housing. The needs assessment conducted under this section must in-**

1 clude an evaluation of the placement of and quality of spaces provided
2 for recycling containers and recommendations for improving spaces
3 that are determined to be inadequate.

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

9 “(3) No later than one year after the date on which the department
10 completes a report submitted under subsection (2) of this section, a
11 producer responsibility organization must submit a new plan or plan
12 amendment that describes how the organization will improve recycling
13 collection for residents of multifamily housing, based on the findings
14 of the needs assessment.

15 **“SECTION 31. Fees. (1) The Environmental Quality Commission**
16 **shall establish the following fees:**

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

19 “(b)(A) Subject to subparagraph (B) of this paragraph, an annual
20 fee charged to each producer responsibility organization for the pur-
21 pose of paying the costs to the Department of Environmental Quality
22 of administering, implementing and enforcing the provisions of
23 sections 1 to 43 of this 2021 Act.

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

28 “(2) The department shall provide notice to a producer responsibil-
29 ity organization no later than September 1 of each year of the annual
30 fee required under subsection (1)(b) of this section for the upcoming

1 calendar year. Fees collected by the department under this section
2 shall be deposited in the State Treasury to the credit of the Producer
3 Responsibility Fund established under section 34 of this 2021 Act.

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

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

14 **“(a) Public bodies;**

15 **“(b) Tribal governments;**

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

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

19 **“(3) In providing grants or loans for programs under this section,**
20 **the department must consider criteria that include, but are not limited**
21 **to:**

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

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

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

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

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

28 **“(4) In addition to the fees established under section 31 of this 2021**
29 **Act, the Environmental Quality Commission shall establish a waste**
30 **prevention and reuse fee to be paid by producer responsibility organ-**

1 izations. The fee established under this subsection must be reasonably
2 calculated to support the waste prevention and reuse programs estab-
3 lished under this section. The fee charged to any producer responsi-
4 bility organization may not exceed 10 percent of the three-year average
5 of the organization’s annual expenditures, excluding payments of the
6 fee established under this section, as described in the organizations’
7 annual reports submitted under section 12 of this 2021 Act. Fees col-
8 lected under this subsection must be deposited in the Waste Pre-
9 vention and Reuse Fund established under section 35 of this 2021 Act.

10 **“SECTION 33. Life cycle evaluation.** The Environmental Quality
11 Commission shall establish by rule standards for the evaluation and
12 disclosure of the environmental impacts of covered products through
13 the life cycle of the products. Rules adopted under this section must:

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

18 “(2) Require large producers to:

19 “(a) Once every two years, perform an evaluation of the life cycle
20 impacts of at least one percent of covered products that the large
21 producer sells or distributes in or into this state;

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

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

26 **“SECTION 34. Producer Responsibility Fund.** The Producer Re-
27 sponsibility Fund is established, separate and distinct from the Gen-
28 eral Fund. The Producer Responsibility Fund consists of moneys
29 deposited into the fund under section 31 of this 2021 Act and moneys
30 transferred or appropriated to the fund by the Legislative Assembly.

1 All moneys in the Producer Responsibility Fund are continuously ap-
2 propriated to the Department of Environmental Quality and may be
3 used only to pay the costs of administering, implementing and en-
4 forcing sections 1 to 43 of this 2021 Act.

5 **“SECTION 35. Waste Prevention and Reuse Fund.** The Waste Pre-
6 vention and Reuse Fund is established, separate and distinct from the
7 General Fund. The Waste Prevention and Reuse Fund consists of
8 moneys deposited into the fund under section 32 of this 2021 Act and
9 moneys transferred or appropriated to the fund by the Legislative As-
10 sembly. All moneys in the Waste Prevention and Reuse Fund are
11 continuously appropriated to the Department of Environmental Qual-
12 ity and may be used only for the purposes described in section 32 of
13 this 2021 Act.

14 **“SECTION 36. Truth in Labeling Task Force.** (1) The Truth in La-
15 beling Task Force is established.

16 **“(2) The task force consists of 15 members appointed as follows:**

17 **“(a) The President of the Senate shall appoint one member from**
18 **among members of the Senate.**

19 **“(b) The Speaker of the House of Representatives shall appoint one**
20 **member from among members of the House of Representatives.**

21 **“(c) The Governor shall appoint:**

22 **“(A) Five members to represent producers.**

23 **“(B) Three members to represent local governments of different**
24 **population sizes and geographic locations in this state.**

25 **“(C) Four members to represent the recycling industry, including**
26 **collectors and processors from different population sizes and ge-**
27 **ographic locations in this state.**

28 **“(D) One member to represent the interests of environmental or-**
29 **ganizations.**

30 **“(3) The task force shall study and evaluate misleading or confusing**

1 **claims regarding the recyclability of products made on a product or**
2 **product packaging. The study must include consideration of issues**
3 **affecting accessibility for diverse audiences.**

4 **“(4) A majority of the voting members of the task force constitutes**
5 **a quorum for the transaction of business.**

6 **“(5) Official action by the task force requires the approval of a**
7 **majority of the voting members of the task force.**

8 **“(6) The task force shall elect one of its members to serve as**
9 **chairperson.**

10 **“(7) If there is a vacancy for any cause, the appointing authority**
11 **shall make an appointment to become immediately effective.**

12 **“(8) The task force shall meet at times and places specified by the**
13 **call of the chairperson or of a majority of the voting members of the**
14 **task force.**

15 **“(9) The task force may meet using video conferencing technology**
16 **or through some other electronic or virtual means.**

17 **“(10) The task force may adopt rules necessary for the operation**
18 **of the task force.**

19 **“(11) The task force shall submit a final report and recommen-**
20 **dations for legislation in the manner provided by ORS 192.245 to the**
21 **interim committees of the Legislative Assembly related to the envi-**
22 **ronment no later than June 1, 2022.**

23 **“(12) The Department of Environmental Quality shall provide staff**
24 **support to the task force.**

25 **“(13) Members of the Legislative Assembly appointed to the task**
26 **force are nonvoting members of the task force and may act in an ad-**
27 **visory capacity only.**

28 **“(14) Members of the task force who are not members of the Leg-**
29 **islative Assembly are not entitled to compensation or reimbursement**
30 **for expenses and serve as volunteers on the task force.**

1 “(15) All agencies of state government, as defined in ORS 174.111,
2 are directed to assist the task force in the performance of the duties
3 of the task force and, to the extent permitted by laws relating to
4 confidentiality, to furnish information and advice the members of the
5 task force consider necessary to perform their duties.

6
7 “(Commingled Recycling Processing Facilities)
8

9 “SECTION 37. Permit required. (1) On or after the date established
10 by the Environmental Quality Commission under subsection (3) of this
11 section, a person may not establish or operate a commingled recycling
12 processing facility in this state unless the person obtains a disposal
13 site permit issued by the Department of Environmental Quality under
14 ORS 459.205.

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

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

19 “(b) Market materials to responsible end markets or to another
20 commingled recycling processing facility, provided that the permittee
21 complies with the requirements for a commingled recycling reload fa-
22 cility under section 19 of this 2021 Act;

23 “(c) Manage contaminants to avoid impacts on other waste streams
24 or facilities;

25 “(d) Refrain from creating a public nuisance or health hazard,
26 consistent with rules adopted under this section;

27 “(e) Limit air or water pollution or other adverse impacts on public
28 health or the environment;

29 “(f) Evaluate and report on inbound material quality and contam-
30 ination, in accordance with forms and procedures established by the

1 department in section 39 of this 2021 Act;

2 “(g) Accurately report outbound contamination levels; and

3 “(h) For all materials held by the processor:

4 “(A)(i) Accurately report the final end market of the materials; or

5 “(ii) Obtain a certification that the responsible end markets for the
6 materials meet standards for environmental and social sustainability
7 established by a program approved by the commission under sub-
8 section (3) of this section.

9 “(B) Proprietary information on the final end market of materials
10 may be designated confidential by the processor and is not subject to
11 public disclosure under ORS 192.311 to 192.478, except that the depart-
12 ment or producer responsibility organizations may disclose summa-
13 rized information or aggregated data if the information or data do not
14 identify the proprietary information of any specific processor.

15 “(3) The commission shall prescribe by rule the requirements for a
16 permit issued under ORS 459.205 and this section. Rules adopted under
17 this subsection shall allow for permitted facilities to direct, in re-
18 sponse to an emergency failure of critical equipment at their own fa-
19 cility, and on a temporary basis, small amounts of unsorted inbound
20 materials to other recycling processing facilities for sorting and recy-
21 cling so long as such facilities meet the requirements described in
22 subsection (2)(a), (c) and (g) of this section. Rules adopted under this
23 section may include:

24 “(a) A schedule for implementing the requirements of this section,
25 including:

26 “(A) The date by which a person must first obtain a permit required
27 under this section; and

28 “(B) Dates for the implementation of modified standards that a
29 person must meet to satisfy the requirements of this section, and the
30 accompanying standards; and

1 **“(b) The identification of approved programs for certifying the en-**
2 **vironmental and social sustainability of responsible 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 located outside of Oregon. The department may issue certif-**
7 **icates under the program or develop a list of approved contractors to**
8 **issue certificates.**

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

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

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

19
20 **“(Enforcement)**

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

28 **“(2) A producer responsibility organization shall retain all records**
29 **related to the implementation and administration of a producer re-**
30 **sponsibility program for not less than five years from the time the**

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

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

7 “(4) In accordance with the applicable provisions of ORS chapter 183
8 relating to contested case proceedings, and in accordance with ORS
9 468.130 and rules adopted pursuant to ORS 468.130, the department may
10 issue civil penalties for violations of the provisions of sections 1 to 43
11 of this 2021 Act. All penalties recovered for violations of sections 1 to
12 43 of this 2021 Act shall be paid into the State Treasury and credited
13 to the Waste Prevention and Reuse Fund established under section 35
14 of this 2021 Act.

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

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

20 “(b) A violation has had a material impact on the implementation
21 and administration of the organization’s producer responsibility pro-
22 gram plan; or

23 “(c) A producer responsibility organization is in violation of section
24 4 (12) of this 2021 Act.

25 “(6) The Department of Justice, at the request of the Department
26 of Environmental Quality, may bring an action seeking to prohibit the
27 sale of a covered product in or into this state against any producer
28 that sells, offers to sell or distributes a covered product in or into this
29 state in violation of section 4 of this 2021 Act.

30 “(7) Any person with control of materials collected under sections

1 1 to 43 of this 2021 Act shall retain all records related to the person’s
2 responsibilities under sections 1 to 43 of this 2021 Act for not less than
3 five years from the time the record was created and make the records
4 available for inspection by the department upon request.

5 “(8) A person required to retain records under subsection (7) of this
6 section shall make the records available to the department upon re-
7 quest of a producer responsibility organization if necessary to allow
8 the organization to meet its obligations under sections 1 to 43 of this
9 2021 Act.

10 “(9) Proprietary information furnished to the department relating
11 to subsections (7) and (8) of this section may be designated confiden-
12 tial. Information designated confidential is not subject to public dis-
13 closure under ORS 192.311 to 192.478, except that the department may
14 disclose summarized information or aggregated data if the information
15 or data do not directly or indirectly identify the proprietary informa-
16 tion of a specific person.

17

18 “(Miscellaneous)

19

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

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

29 “(3) Nothing in this section prevents a composting facility from
30 accepting materials that are not readily compostable and are inci-

1 dentally collected as part of a collection program.

2 **“SECTION 42. Antitrust. The Legislative Assembly declares that the**
3 **collaboration of producers through producer responsibility organiza-**
4 **tions to develop and implement producer responsibility program plans**
5 **is in the best interests of the public. Therefore, the Legislative As-**
6 **sembly declares its intent that participating in a producer responsi-**
7 **bility organization to implement a producer responsibility program**
8 **plan as required by sections 1 to 43 of this 2021 Act shall be exempt**
9 **from state antitrust laws. The Legislative Assembly further declares**
10 **its intent to provide immunity for participating in a producer respon-**
11 **sibility organization to implement a producer responsibility program**
12 **plan as required by sections 1 to 43 of this 2021 Act from federal anti-**
13 **trust laws. This section does not authorize any person to engage in**
14 **activities or to conspire to engage in activities that constitute per se**
15 **violations of state or federal antitrust laws that are not authorized**
16 **under sections 1 to 43 of this 2021 Act.**

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

19 **“SECTION 43a. Sections 1 to 43 of this 2021 Act are added to and**
20 **made a part of ORS chapter 459A.**

21

22 **“(State Procurement Assessment)**

23

24 **“SECTION 44. State procurement assessment. (1) The Oregon De-**
25 **partment of Administrative Services, in consultation with the De-**
26 **partment of Environmental Quality, shall study and assess state**
27 **procurement practices as they relate to recycled products, recycled**
28 **PETE and recycled materials as those terms are defined in ORS**
29 **279A.010. The assessment must include:**

30 **“(a) An evaluation of procurement practices under ORS chapters**

1 **279A and 279B related to recycled materials, including efficacy and**
2 **compliance;**

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

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

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

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

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

18

19 **“AMENDMENTS TO STATUTES**

20

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

22 **“459.005. As used in ORS 459.005 to 459.437, 459.705 to 459.790 and**
23 **459A.005 to 459A.665:**

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

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

29 **“(3) ‘Collection service’ means a service that provides for collection of**
30 **solid waste or recyclable material or both but does not include that part of**

1 a business operated under a certificate issued under ORS 822.110.

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

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

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

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

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

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

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

22 “(B) A facility subject to the permit requirements of ORS 468B.050 or
23 468B.053;

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

28 “(D) A site operated by a dismantler issued a certificate under ORS
29 822.110.

30 “(9) ‘Energy recovery’ means recovery in which all or a part of the solid

1 waste materials are processed to use the heat content, or other forms of en-
2 ergy, of or from the material.

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

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

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

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

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

17 “(15) ‘Local government unit’ means a city, county, metropolitan service
18 district formed under ORS chapter 268, sanitary district or sanitary authority
19 formed under ORS chapter 450, county service district formed under ORS
20 chapter 451, regional air quality control authority formed under ORS
21 468A.100 to 468A.130 and 468A.140 to 468A.175 or any other local government
22 unit responsible for solid waste management.

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

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

30 “[17] (18) ‘Metropolitan service district’ means a district organized un-

1 der ORS chapter 268 and exercising solid waste authority granted to such
2 district under this chapter and ORS chapters 268 and 459A.

3 “[~~(18)~~] **(19)** ‘Person’ means the United States, the state or a public or
4 private corporation, local government unit, public agency, individual, part-
5 nership, association, firm, trust, estate or any other legal entity.

6 “[~~(19)~~] **(20)** ‘Recyclable material’ means any material **identified for re-**
7 **cycling collection under section 22 of this 2021 Act or any other ma-**
8 **terial** or group of materials that can be collected and sold for recycling at
9 a net cost equal to or less than the cost of collection and disposal of the
10 same material.

11 “[~~(20)~~] **(21)** ‘Recycling’ means any process by which solid waste materials
12 are transformed into new products in a manner that the original products
13 may lose their identity.

14 “[~~(21)~~] **(22)** ‘Region’ means the states of Idaho, Oregon and Washington
15 and those counties in California and Nevada that share a common border
16 with Oregon.

17 “[~~(22)~~] **(23)** ‘Regional disposal site’ means a disposal site that receives, or
18 a proposed disposal site that is designed to receive more than 75,000 tons of
19 solid waste a year from outside the immediate service area in which the
20 disposal site is located. As used in this subsection, ‘immediate service
21 area’ means the county boundary of all counties except a county that is
22 within the boundary of the metropolitan service district. For a county within
23 the metropolitan service district, ‘immediate service area’ means the metro-
24 politan service district boundary.

25 “[~~(23)~~] **(24)** ‘Reuse’ means the return of a commodity into the economic
26 stream for use in the same kind of application as before without change in
27 its identity.

28 “[~~(24)~~] **(25)** ‘Solid waste’ means all useless or discarded putrescible and
29 nonputrescible materials, including but not limited to garbage, rubbish, re-
30 fuse, ashes, paper and cardboard, sewage sludge, septic tank and cesspool

1 pumpings or other sludge, useless or discarded commercial, industrial, dem-
2 olition and construction materials, discarded or abandoned vehicles or parts
3 thereof, discarded home and industrial appliances, manure, vegetable or ani-
4 mal solid and semisolid materials, dead animals and infectious waste as de-
5 fined in ORS 459.386. ‘Solid waste’ does not include:

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

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

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

12 “[~~(25)~~] **(26)** ‘Solid waste management’ means prevention or reduction of
13 solid waste, management of the storage, collection, transportation, treatment,
14 utilization, processing and final disposal of solid waste, recycling, reuse and
15 material or energy recovery from solid waste and facilities necessary or
16 convenient to such activities.

17 “[~~(26)~~] **(27)** ‘Source separate’ means that the person who last uses
18 recyclable material separates the recyclable material from solid waste.

19 “[~~(27)~~] **(28)** ‘Transfer station’ means a fixed or mobile facility other than
20 a collection vehicle where solid waste is deposited temporarily after being
21 removed from the site of generation but before being transported to a final
22 disposal location.

23 “[~~(28)~~] **(29)** ‘Waste prevention’ means to reduce the amount of solid waste
24 generated or resources used, without increasing toxicity, in the design,
25 manufacture, purchase or use of products or packaging. ‘Waste prevention’
26 does not include reuse, recycling or composting.

27 “[~~(29)~~] **(30)** ‘Wasteshed’ means an area of the state having a common solid
28 waste disposal system or designated by the commission as an appropriate
29 area of the state within which to develop a common recycling program.

30 “[~~(30)~~] **(31)** ‘Woody biomass’ means material from trees and woody plants,

1 including limbs, tops, needles, leaves and other woody parts, grown in a
2 forest, woodland, farm, rangeland or wildland-urban interface environment
3 that is the by-product of forest management, ecosystem restoration or haz-
4 arduous fuel reduction treatment.

5 “[31] (32) ‘Yard debris’ includes grass clippings, leaves, hedge trimmings
6 and similar vegetative waste generated from residential property or land-
7 scaping activities, but does not include stumps or similar bulky wood mate-
8 rials.

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

10 “459.015. (1) The Legislative Assembly finds and declares that:

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

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

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

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

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

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

30 “(g) The State of Oregon should make it a priority to support efforts that

1 assist each watershed in meeting its recovery goal so the statewide recovery
2 goal may be achieved.

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

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

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

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

1 “(a) After consideration of technical and economic feasibility, establish
2 priority in methods of managing solid waste in Oregon as follows:]

3 “(a) **Minimize the net negative impacts of materials, across their**
4 **life cycle, on human well-being and environmental health, including**
5 **the quality of land, air, water and ecosystems, with consideration of**
6 **technical and economic feasibility.**

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

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

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

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

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

20 “(i) **Recycling methods and responsible end markets that displace**
21 **the production of more impactful materials over recycling methods**
22 **and responsible end markets that displace the production of less**
23 **impactful materials.**

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

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

30 “(E) Fifth, to recover energy from solid waste that cannot be reused, re-

1 cycled or composted [*so long as the energy recovery facility preserves the*
2 *quality of air, water and land resources; and*], **provided that the emissions**
3 **and impacts of energy recovery are understood and result in net re-**
4 **ductions in impacts on human well-being and environmental health**
5 **relative to the methods described in subparagraph (F) of this para-**
6 **graph.**

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

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

14 “[*c*] (e) Retain primary responsibility for management of adequate solid
15 waste management programs with cities, counties or metropolitan service
16 districts, reserving to the state those functions necessary to ensure effective
17 programs, cooperation among cities, counties or metropolitan service dis-
18 tricts and coordination of solid waste management programs throughout the
19 state.

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

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

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

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

30 “[*h*] (j) Develop, in coordination with federal, state and local agencies

1 and other affected persons, long-range plans including regional approaches
2 to promote reuse, to provide land reclamation in sparsely populated areas,
3 and in urban areas necessary disposal facilities.

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

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

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

13 “[*L*] (n) Promote means of preventing or reducing at the source, mate-
14 rials [*which*] **that** otherwise would constitute solid waste.

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

18 **“(p) Provide for recycling collection and recycling processing sys-**
19 **tems that have adequate capacity and are operated for the purpose of**
20 **achieving the policy set forth in this section and providing clean, us-**
21 **able materials to industry.**

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

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

27 “459.995. (1) Except as provided in subsection (2) of this section, in addi-
28 tion to any other penalty provided by law:

29 “(a) Any person who violates ORS 459.205, 459.270, 459.272, 459.386 to
30 459.405, 459.705 to 459.790, 459A.005 to 459A.620, 459A.310 to 459A.335[

1 459A.675 to 459A.685] or 646A.080 or sections 1 to 43 of this 2021 Act, or
2 any rule or order of the Environmental Quality Commission pertaining to the
3 disposal, collection, storage or reuse or recycling of solid wastes, as defined
4 by ORS 459.005, or any rule or order pertaining to the disposal, storage or
5 transportation of waste tires, as defined by ORS 459.705, or any rule or order
6 pertaining to the sale of novelty items that contain encapsulated liquid
7 mercury, incurs a civil penalty not to exceed \$25,000 per day for each day
8 of the violation.

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

13 “(c) For each day a city, county or metropolitan service district fails to
14 provide the opportunity to recycle as required under ORS 459A.005, the city,
15 county or metropolitan service district incurs a civil penalty not to exceed
16 \$500 for each violation.

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

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

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

25 “(g) Any stewardship organization that violates the provisions of ORS
26 459A.825 (2)(a), 459A.827, 459A.830 to 459A.837 or 459A.842 incurs a civil
27 penalty not to exceed \$1,000 per day for each day of the violation.

28 “(2) Any product manufacturer or package manufacturer who violates
29 ORS 459A.650 to 459A.665 or any rule adopted under ORS 459A.650 to
30 459A.665 incurs a civil penalty not to exceed \$1,000 per day for each day of

1 the violation. A violation of ORS 459A.650 to 459A.665 is not subject to ad-
2 ditional penalties under subsection (1) of this section.

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

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

6 “459A.005. (1) As used in ORS 459.015, 459.250 and 459A.005 to 459A.665,
7 the ‘opportunity to recycle’ means at least that the city, county or metro-
8 politan service district responsible for solid waste management:

9 “(a)(A) Provides a place for collecting source separated recyclable mate-
10 rial, **including the materials on the uniform statewide collection list**
11 **established under section 22 of this 2021 Act designated for collection**
12 **at a recycling depot**, located either at a disposal site or at another location
13 more convenient to the population being served and, if a city has a popu-
14 lation of 4,000 or more, collection at least once a month of source separated
15 recyclable material, **including the materials on the uniform statewide**
16 **collection list established under section 22 of this 2021 Act designated**
17 **for recycling collection services described in section 2 (27)(a) to (c) of**
18 **this 2021 Act**, from collection service customers within the city’s urban
19 growth boundary or, where applicable, within the urban growth boundary
20 established by a metropolitan service district; or

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

23 “(b) Complies with the program element requirements described in ORS
24 459A.007.

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

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

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

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

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

4 “(a)(A) Provides a place for collecting source separated recyclable mate-
5 rial, **including the materials on the uniform statewide collection list**
6 **established under section 22 of this 2021 Act designated for collection**
7 **at a recycling depot**, located either at a disposal site or at another location
8 more convenient to the population being served and, if a city has a popu-
9 lation of 4,000 or more, collection at least once a month of source separated
10 recyclable material, **including the materials on the uniform statewide**
11 **collection list established under section 22 of this 2021 Act designated**
12 **for recycling collection services described in section 2 (27)(a) to (c) of**
13 **this 2021 Act**, from collection service customers within the city’s urban
14 growth boundary or, where applicable, within the urban growth boundary
15 established by a metropolitan service district; or

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

18 “(b) Complies with the program element requirements described in ORS
19 459A.007.

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

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

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

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

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

26 “(b) The residential and commercial tenants of landlords or property
27 managers that are customers of a collection service for the benefit of their
28 tenants. **The Director of the Department of Environmental Quality may**
29 **approve exemptions to the requirement to provide the opportunity to**
30 **recycle to tenants described in this paragraph in cases of extreme**

1 **compliance barriers caused by lack of space, local land use or zoning**
2 **laws or other insurmountable challenges.**

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

5 **“Sec. 3.** The amendments to ORS 459A.005 by section 2, **chapter 534,**
6 **Oregon Laws 2015,** [*of this 2015 Act*] become operative on July 1, [2022]
7 **2026.**

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

9 “459A.007. (1) A person providing the opportunity to recycle shall fulfill
10 the requirements of subsection (3) of this section using the following recy-
11 cling program elements:

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

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

17 “(c) An expanded education and promotion program as described in ORS
18 459A.008.

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

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

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

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

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

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

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

7 “(A) Weekly, or on a more appropriate regular schedule, onsite collection
8 of source separated [*principal recyclable*] materials **designated for recycling**
9 **collection on the uniform statewide collection list established under**
10 **section 22 of this 2021 Act** from, at a minimum, commercial generators of
11 solid waste employing 10 or more persons and occupying 1,000 square feet
12 or more in a single location.

13 “(B) An education and promotion program conducted to inform all com-
14 mercial generators of solid waste of the manner and benefits of the com-
15 mercial recycling program that provides effective promotion of the program
16 to the generators.

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

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

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

30 “(A) Have regular and convenient hours;

- 1 “(B) Be open on the weekend days; and
- 2 “(C) When feasible, collect additional recyclable materials.
- 3 “(h) Solid waste residential collection rates that encourage waste re-
- 4 duction, reuse and recycling through reduced rates for smaller containers,
- 5 including at least one rate for a container that is 21 gallons or less in size.
- 6 Based on the average weight of solid waste disposed per container for con-
- 7 tainers of different sizes, the rate on a per pound disposed basis may not
- 8 decrease with increasing size of containers, and the rates per container ser-
- 9 vice may not be less with additional containers serviced.
- 10 “(i) A collection and composting system for food and other compostable
- 11 waste from commercial and institutional entities that generate large amounts
- 12 of such wastes.
- 13 “(j) A commercial recycling program that requires commercial generators
- 14 of solid waste that generate large amounts of recyclable materials to source
- 15 separate recyclable materials.
- 16 “(k) A program for monthly or more frequent on-route collection and
- 17 composting for food and other compostable waste from residential collection
- 18 service customers. The program described in this paragraph must include
- 19 education or promotion to reduce contamination of the compost feedstock
- 20 collected.
- 21 “(L) A recovery program for construction and demolition debris that:
- 22 “(A) Requires construction and demolition debris to be source separated
- 23 at the generation site or sent to a material recovery facility for processing
- 24 and recovery; and
- 25 “(B) Includes an education or promotion program for developers, con-
- 26 tractors and residential owners that provides strategies to:
- 27 “(i) Reduce waste during preconstruction planning and in building con-
- 28 struction, renovation and demolition phases; and
- 29 “(ii) Direct waste to reuse and material recovery facilities.
- 30 “(m) A food waste collection program requiring nonresidential generators

1 that generate large amounts of food waste to source separate the food waste
2 for recovery.

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

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

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

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

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

17 “(e) A program for the provision of city or watershed funding or
18 infrastructure support to promote and sustain reuse, repair, leasing or shar-
19 ing efforts.

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

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

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

30 “(a) The applicable number of recycling program elements for the size and

1 location of the city as provided in subsection (4) of this section; or

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

6 “(A) Recovery rates specified in ORS 459A.010 (2); or
7 “(B) Recovery levels comparable to similar communities.

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

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

11 “(A) The three recycling program elements set forth under subsection
12 (1)(a), (b) and (c) of this section and at least four additional elements set
13 forth under subsection (1) of this section; or
14 “(B) At least eight recycling program elements set forth under subsection
15 (1) of this section.

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

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

22 “(d) For cities with a population of more than 10,000 but not more than
23 50,000 that are located 150 miles or less from the City of Portland:

24 “(A) The three recycling program elements set forth under subsection
25 (1)(a), (b) and (c) of this section and at least two additional elements set
26 forth under subsection (1) of this section; or
27 “(B) At least six recycling program elements set forth under subsection
28 (1) of this section.

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

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

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

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

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

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

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

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

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

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

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

1 50,000, that is within a county of greater than 100,000 population, and each
2 county of greater than 100,000 population that is responsible for the area
3 between city limits and the urban growth boundary of a city with a popu-
4 lation of greater than 10,000 but no more than 50,000 shall implement either:

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

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

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

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

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

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

30 “(B) Fund implementation of the opportunity to recycle through an al-

1 ternative source of funding that may include but is not limited to disposal
2 fees.

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

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

11 **“SECTION 52.** ORS 459A.008 is amended to read:

12 “459A.008. An expanded education and promotion program to satisfy the
13 requirements of ORS 459A.007 must carry out the policy set forth in ORS
14 459.015, inform generators of solid waste of the manner and benefits of re-
15 ducing, reusing, recycling and composting material, promote use of recycling
16 services and reduce contamination in collected recyclables. The city, county
17 or metropolitan service district responsible for providing an opportunity to
18 recycle shall provide the education and promotion program in one of the
19 following ways:

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

24 “(b) The plan described in paragraph (a) of this subsection must be sub-
25 mitted to the Department of Environmental Quality during the first year that
26 the plan is in effect. Thereafter, the watershed shall submit a summary of
27 activities in the plan to the department at the same time the county submits
28 the periodic report required under ORS 459A.050 (1)(a). The summary must
29 cover at least the time period until the next periodic report is due to the
30 department.

1 “(2) Implementing all of the following:

2 “(a)(A) Provision of recycling notification and education packets to all
3 new residential, commercial and institutional collection service customers
4 that include, at a minimum, information about the materials collected, the
5 schedule for collection, the way to prepare materials for collection, why
6 separating material for recycling is necessary and how to reduce contam-
7 ination of the materials set out for collection.

8 “(B) In addition to the requirements of subparagraph (A) of this para-
9 graph, the educational and promotional materials provided to commercial
10 collection customers must:

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

12 “(ii) Include information on the economic and other benefits of recycling,
13 common barriers to recycling and solutions to the barriers, additional re-
14 sources for commercial generators of solid waste and other information de-
15 signed to assist and encourage recycling efforts and reduce contamination;
16 and

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

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

23 “(c) Provision, at least annually, of the information described in para-
24 graph (a) of this subsection to all residential, commercial and institutional
25 collection service customers.

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

28 “[e] *A program to determine the levels of contamination of materials set*
29 *out for collection and to take action to reduce contamination in collected*
30 *recyclables.*]

1 **“SECTION 53.** ORS 459A.025 is amended to read:

2 “459A.025. (1) According to the requirements of ORS chapter 183, the
3 Environmental Quality Commission shall adopt rules and guidelines neces-
4 sary to carry out the provisions of ORS 459.005, 459.015, 459.035, 459.250,
5 459.992 (1) and (2), 459.995 and 459A.005 to 459A.665, including but not lim-
6 ited to:

7 “(a) Acceptable alternative methods for providing the opportunity to re-
8 cycle;

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

11 “(c) Identification of the wastesheds within the state;

12 “*[(d) Identification of the principal recyclable material in each*
13 *wasteshed;]*

14 “*[(e)]* (d) Guidelines for local government units and other persons re-
15 sponsible for implementing the provisions of ORS 459.005, 459.015, 459.035,
16 459.250, 459.992 (1) and (2), 459.995 and 459A.005 to 459A.665; and

17 “*[(f)]* (e) Standards for the joint submission of the recycling reports re-
18 quired under ORS 459A.050 (1).

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

21 “(a) The policy stated in ORS 459.015.

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

24 “(c) Availability of markets for recyclable material.

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

27 “(e) Avoided costs of disposal.

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

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

1 **“SECTION 54.** ORS 459A.080 is amended to read:

2 “459A.080. A person may not:

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

6 “(2) Remove any recyclable material from a container, box, collection ve-
7 hicle, **recycling** depot or other receptacle for the accumulation or storage
8 of recyclable material without permission of the owner of the receptacle.

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

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

15 **“SECTION 55.** ORS 459.035 is amended to read:

16 “459.035. Consistent with ORS 459.015 [(2)(c)] **(2)(e)**, the Department of
17 Environmental Quality shall provide to state agencies, local government
18 units and persons providing collection service, advisory technical and plan-
19 ning assistance in development and implementation of effective solid waste
20 management plans and practices, implementation of recycling programs un-
21 der ORS 459.250, 459A.005 to 459A.120 and 459A.600 to 459A.620, and assist-
22 ance in training of personnel in solid waste management. The department
23 shall report to the Legislative Assembly from time to time on further as-
24 sistance that will be needed to develop, implement and administer effective
25 solid waste management programs or recycling programs. The department
26 shall assist in surveys to locate potential disposal sites. The department may
27 request the assistance of other state agencies.

28 **“SECTION 56.** ORS 459.772 is amended to read:

29 “459.772. Notwithstanding any other provision of ORS 459.015, for pur-
30 poses of encouraging the use of waste tires under ORS 459.705 to 459.790, the

1 use of processed, source-separated waste tires having a positive market value
2 as a new product to recover energy shall be considered recycling under ORS
3 459.015 [(2)(a)(C)] (2)(c)(C).

4 **“SECTION 57.** ORS 90.318 is amended to read:

5 “90.318. (1) In a city or the county within the urban growth boundary of
6 a city that has implemented multifamily recycling service, a landlord who
7 has five or more residential dwelling units on a single premises or five or
8 more manufactured dwellings in a single facility shall at all times during
9 tenancy provide to all tenants:

10 “(a) A separate location for containers or depots for [*at least four princi-*
11 *pal recyclable materials or for the number of materials required to be collected*
12 *under the residential on-route collection program, whichever is less,*] **materi-**
13 **als designated for recycling collection on the uniform statewide col-**
14 **lection list established under section 22 of this 2021 Act,** adequate to
15 hold the reasonably anticipated volume of each material;

16 “(b) Regular collection service of the source separated recyclable materi-
17 als; and

18 “(c) Notice at least once a year of the opportunity to recycle with a de-
19 scription of the location of the containers or depots on the premises and in-
20 formation about how to recycle. New tenants shall be notified of the
21 opportunity to recycle at the time of entering into a rental agreement.

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

24

25 **“REPEALS**

26

27 **“SECTION 58. (1) ORS 459A.675, 459A.680 and 459A.685 are repealed.**

28 **(2) Section 26 of this 2021 Act is repealed on January 2, 2027.**

29 **(3) Section 36 of this 2021 Act is repealed on December 31, 2022.**

30

1 specified in subsection (1) of this section that is necessary for the de-
2 partment or the commission to exercise, on and after the operative
3 date specified in subsection (1) of this section, all of the duties, func-
4 tions and powers conferred on the department and the commission by
5 section 19 of this 2021 Act.

6 “(3) The amendments to section 19 of this 2021 Act by section 19a
7 of this 2021 Act become operative on January 1, 2027.

8 “(4) The Department of Environmental Quality and Environmental
9 Quality Commission may take any action before the operative date
10 specified in subsection (3) of this section that is necessary for the de-
11 partment or the commission to exercise, on and after the operative
12 date specified in subsection (3) of this section, all of the duties, func-
13 tions and powers conferred on the department and the commission by
14 the amendments to section 19 of this 2021 Act by section 19a of this
15 2021 Act.

16 **“SECTION 64.** Notwithstanding the term of office specified in sec-
17 tion 17 of this 2021 Act, of the members first appointed to the Oregon
18 Recycling System Advisory Council:

19 “(1) Five shall serve for terms ending June 30, 2023;

20 “(2) Five shall serve for terms ending June 30, 2024; and

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

22

23 “UNIT AND SECTION CAPTIONS

24

25 **“SECTION 65.** The unit and section captions used in this 2021 Act
26 are provided only for the convenience of the reader and do not become
27 part of the statutory law of this state or express any legislative intent
28 in the enactment of this 2021 Act.”.

29