

A-Engrossed
Senate Bill 582

Ordered by the Senate April 16
Including Senate Amendments dated April 16

Sponsored by Senator DEMBROW (Pre-session filed.)

SUMMARY

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

[Directs Department of Environmental Quality to study and make recommendations for modernizing Oregon's recycling system and provide results of study in report to interim committees of Legislative Assembly no later than September 15, 2022.]

[Sunsets January 2, 2023.]

[Takes effect on 91st day following adjournment sine die.]

Establishes producer responsibility program for packaging, printing and writing paper and food serviceware. Requires producers of covered products to join producer responsibility organization that implements producer responsibility program plan approved by Department of Environmental Quality.

Directs department to establish uniform statewide collection list for recyclable materials.

Establishes Oregon Recycling System Advisory Council.

Establishes Truth in Labeling Task Force.

Repeals labeling requirements for rigid plastic bottles and containers.

Requires commingled recycling processing facility to obtain disposal site permit. Prohibits delivery of certain recyclable materials to recycling processing facility other than permitted or certified facility.

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

A BILL FOR AN ACT

Relating to modernizing Oregon's recycling system; creating new provisions; amending ORS 90.318, 459.005, 459.015, 459.035, 459.772, 459.995, 459A.005, 459A.007, 459A.008, 459A.025 and 459A.080 and section 3, chapter 534, Oregon Laws 2015; and repealing ORS 459A.675, 459A.680 and 459A.685.

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

MODERNIZING OREGON'S RECYCLING SYSTEM

(Legislative Findings; Definitions)

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

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

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

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

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

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

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

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

14 (1) "Brand" means any mark, word, name, symbol, design, device or graphical element,
15 or a combination thereof, including a registered or unregistered trademark, that identifies
16 a product and distinguishes the product from other products.

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

20 (3)(a) "Commingled recycling processing facility" means a facility that:

21 (A) Receives source separated commingled recyclable materials that are collected
22 commingled from a collection program providing the opportunity to recycle; and

23 (B) Separates the recyclable materials described in subparagraph (A) of this paragraph
24 into marketable commodities or streams of materials that are intended for use or further
25 processing by others.

26 (b) "Commingled recycling processing facility" does not include:

27 (A) Scrap metal recycling facilities;

28 (B) Scrap automotive or appliance recycling facilities;

29 (C) Full-service redemption centers or dealer redemption centers, as those terms are
30 defined in ORS 459A.700, and recycling facilities owned and operated by a distributor coop-
31 erative established under ORS 459A.718;

32 (D) Recycling facilities handling covered electronic devices, as defined in ORS 459A.305;

33 (E) Recycling processing facilities that only process noncommingled, source separated
34 recyclable material from commercial entities;

35 (F) Recycling processing facilities that recover commingled recyclable material primarily
36 from the construction and demolition debris waste stream;

37 (G) Recycling depots;

38 (H) Recycling reload facilities; or

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

40 (4) "Contaminant" means:

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

43 (b) A material shipped to a recycling end market that is not accepted or desired by that
44 end market.

45 (5) "Contamination" means the presence of one or more contaminants in a recycling

1 collection or commodity stream in an amount or concentration that negatively impacts the
2 value of the material or negatively impacts a processor's ability to sort that material.

3 (6)(a) "Covered product" means:

4 (A) Packaging;

5 (B) Printing and writing paper; and

6 (C) Food serviceware.

7 (b) "Covered product" does not include:

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

9 (B) Bound books.

10 (C) Napkins, paper towels or other paper intended to be used for cleaning or the absorp-
11 tion of liquids.

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

14 (E) Specialty packaging items that are used exclusively in industrial or manufacturing
15 processes, including but not limited to:

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

18 (ii) Trays, whether designed for a single use or multiple uses, used for the transport of
19 component parts from a parts supplier to a manufacturer that assembles those parts.

20 (F) Liquified petroleum gas containers that are designed to be refilled.

21 (G) A material that the producer demonstrates is exempt under section 4 of this 2021
22 Act.

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

25 (I) Packaging related to containers for architectural paint, as defined in ORS 459A.822,
26 that has been collected by a producer responsibility organization under the program estab-
27 lished under ORS 459A.820 to 459A.855.

28 (J) Any item that is not ultimately discarded inside this state, whether for purposes of
29 recovery or disposal.

30 (K) Items sold on a farm or used on a farm, including items used for farm use, as defined
31 in ORS 215.203, or for processing on a farm, provided that an item used on a farm is not
32 subsequently sold at a retail establishment that is not located on a farm.

33 (L) Items used by a nursery licensed under ORS 571.055 that generates the majority of
34 the nursery's revenue through the sale of nursery stock, as defined in ORS 571.005, provided
35 that the items are not sold through retail sales.

36 (M) Packaging for drugs that are exempt from packaging and labeling requirements un-
37 der section 503(b) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 353(b), or paper
38 products sold or supplied in connection with drugs exempt from packaging and labeling re-
39 quirements under section 503(b) of the Federal Food, Drug, and Cosmetic Act.

40 (N) Packaging used for drugs regulated by the United States Food and Drug Adminis-
41 tration, the United States Department of Agriculture or the United States Environmental
42 Protection Agency that are prescribed, administered or dispensed by or under the super-
43 vision of a licensed veterinarian.

44 (O) Wine and spirit containers for which a refund value is established under Oregon law.

45 (P) Any other material, as determined by the commission by rule, after consultation with

1 the Oregon Recycling System Advisory Council.

2 (7) "Food serviceware" means paper or plastic plates, wraps, cups, bowls, pizza boxes,
3 cutlery, straws, lids, bags, aluminum foil or 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 a take-out food estab-
6 lishment, regardless of whether the item is used to prepackage food for resale, is filled on
7 site for food ordered by a customer or is resold as is.

8 (8) "Generator" means a person that first discards a solid waste or makes the solid waste
9 available for recovery.

10 (9) "Large producer" means a producer that is among the 25 largest producers of covered
11 products based on market share.

12 (10) "Licensee" means a person that is licensed by a brand and manufactures a covered
13 product or a packaged item under that brand.

14 (11) "Litter" means waste that is improperly placed so as to be a nuisance or aesthetic,
15 health or environmental concern.

16 (12) "Local government" means:

17 (a) A city;

18 (b) A county; or

19 (c) A metropolitan service district.

20 (13) "Local government's service provider" means:

21 (a) A collection service franchise holder under ORS 459A.085;

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

24 (c) Any person authorized by a metropolitan service district to provide recycling col-
25 lection services described in subsection (27)(d) of this section.

26 (14) "Market share" means a producer's percentage of all covered products sold in or into
27 this state during a specified time period, as calculated in accordance with methods estab-
28 lished by the commission by rule.

29 (15) "Mechanical recycling" means a form of recycling that does not change the basic
30 molecular structure of the material being recycled.

31 (16) "Metropolitan service district" means a metropolitan service district established
32 under ORS chapter 268.

33 (17) "Nonprofit organization" means an organization or group of organizations described
34 in section 501(c)(3) of the Internal Revenue Code that is exempt from income tax under
35 section 501(a) of the Internal Revenue Code.

36 (18) "Opportunity to recycle" has the meaning given that term in ORS 459A.005.

37 (19)(a) "Packaging" means:

38 (A) Materials used for the containment or protection of products, including but not lim-
39 ited to paper, plastic, glass or metal or a mixture thereof;

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

41 (C) Nondurable materials used in storage, shipping or moving, including but not limited
42 to packing materials, moving boxes, file boxes and folders.

43 (b) "Packaging" does not include:

44 (A) Food serviceware; or

45 (B) Sharps, as defined in ORS 459.386.

1 (20) “Person” has the meaning given that term in ORS 459.005.

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

5 (22) “Processor” means a person that owns or operates a commingled recycling process-
6 ing facility.

7 (23) “Producer” means a person that is determined to be the producer of a covered
8 product under section 3 of this 2021 Act.

9 (24) “Producer responsibility organization” means a nonprofit organization established
10 by a producer or group of producers to administer a producer responsibility program.

11 (25) “Producer responsibility program” means a statewide program for the responsible
12 management of covered products that is administered by a producer responsibility organiza-
13 tion pursuant to a plan approved by the Department of Environmental Quality under section
14 7 of this 2021 Act.

15 (26) “Recycling collection” means the act or process of gathering recyclable materials by:

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

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

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

20 (d) Recycling depots at a disposal site or another designated location that is more con-
21 venient to the population being served and expanded depots as described in ORS 459A.007;
22 or

23 (e) Other collection methods included in an approved producer responsibility program
24 plan.

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

28 (28) “Recycling reload facility” means a facility other than a recycling depot where
29 recyclable materials are received, consolidated and made ready for transport to another lo-
30 cation for processing or to a responsible end market.

31 (29) “Recycling system” means all aspects of the programs and participants that have a
32 role in Oregon’s statewide recycling structure, including producers of products sold in or into
33 Oregon, generators of recycling materials, governments that regulate materials management
34 programs, businesses that collect and process recycling materials and persons that receive
35 recycling materials to convert to new feedstock or products.

36 (30) “Responsible end market” means a materials market in which the recycling or re-
37 covery of materials or the disposal of contaminants is conducted in a way that benefits the
38 environment and minimizes risks to public health and worker health and safety.

39 (31) “Responsible management” means the handling, tracking and disposition of covered
40 products from the point of collection through the final destination of the collected material
41 in a way that benefits the environment and minimizes risks to public health and worker
42 health and safety.

43 (32) “Responsible recycling” means the handling of covered products for recycling and
44 removal of contaminants by a certified or permitted processor and disposition to a respon-
45 sible end market.

1 (33) “Small producer” means a producer that:

2 (a) Is a nonprofit organization;

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

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

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

8 (e) Is a manufacturer of a beverage sold in a beverage container, as those terms are
9 defined in ORS 459A.700, that sold in or into Oregon less than five metric tons of covered
10 products, including but not limited to secondary and tertiary packaging for beverage con-
11 tainers, for use in this state in the most recent calendar year;

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

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

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

18 (35) “Uniform statewide collection list” means the list of materials established in ac-
19 cordance with the requirements of section 22 (4) of this 2021 Act.

20
21 (Producer Responsibility Organizations)

22
23 **SECTION 3. Determining producers of covered products.** For purposes of sections 1 to
24 43 of this 2021 Act, the producer of a covered product shall be determined as follows:

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

26 (A) If the item is sold in packaging under the manufacturer’s own brand or is sold in
27 packaging that lacks identification of a brand, the producer of the packaging is the person
28 that manufactures the packaged item;

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

33 (C) If there is no person described in subparagraphs (A) and (B) of this paragraph within
34 the United States, the producer of the packaging is the person that imports the packaged
35 item into the United States for use in a commercial enterprise that sells, offers for sale or
36 distributes the item in this state.

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

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

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

42 (2)(a) For printing and writing paper that is a magazine, newspaper, catalog, telephone
43 directory or similar publication, the producer is the publisher.

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

1 (A) The person that manufactures the printing and writing paper under the
2 manufacturer's own brand;

3 (B) If the printing and writing paper is manufactured by a person other than the brand
4 owner, the person that the owner or licensee of a brand or trademark under which the
5 printing and writing paper is used in a commercial enterprise, sold, offered for sale or dis-
6 tributed in or into this state, whether or not the trademark is registered in this state; or

7 (C) If there is no person described in subparagraphs (A) and (B) of this paragraph within
8 the United States, the person that imports the printing and writing paper into the United
9 States for use in a commercial enterprise that sells, offers for sale or distributes the printing
10 and writing paper in this state.

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

13 **SECTION 4. Producers and producer responsibility organizations.** (1) Except as provided
14 in subsection (4) of this section and section 5 of this 2021 Act, each producer must register
15 with and be a member of a producer responsibility organization that administers a producer
16 responsibility program.

17 (2) A producer is required to pay an annual membership fee to a producer responsibility
18 organization as described in section 11 of this 2021 Act. Fees established under sections 1 to
19 43 of this 2021 Act that are charged to a producer responsibility organization must be paid
20 by the producer responsibility organization.

21 (3) A producer is not required to pay membership fees to a producer responsibility or-
22 ganization for any covered product if another person has registered with a producer re-
23 sponsibility organization as the producer responsible for that covered product under sections
24 1 to 43 of this 2021 Act.

25 (4) A producer is not required to be a member of a producer responsibility organization
26 if, for all covered product the producer sells, offers to sell or distributes in or into this state,
27 another person has registered with a producer responsibility organization as the producer
28 responsible for that covered product under sections 1 to 43 of this 2021 Act.

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

30 (a) Pay the membership fee calculated under the schedule established by the producer
31 responsibility organization pursuant to section 11 of this 2021 Act; and

32 (b) Upon request, provide the producer responsibility organization with records or other
33 information necessary for the organization to meet the organization's obligations under
34 sections 1 to 43 of this 2021 Act.

35 (6) A person that sells a covered product in or into this state via remote means and that
36 is only the producer of the packaging used to ship the covered product, as determined under
37 section 3 (1)(b)(B) of this 2021 Act, must notify the producer of the covered product, as de-
38 termined under section 3 (1)(a) of this 2021 Act, and the seller's producer responsibility or-
39 ganization of the sale of a packaged product in or into this state.

40 (7) A producer responsibility organization's obligations under sections 1 to 43 of this 2021
41 Act to work with recycling system participants in order to ensure, to the extent practicable,
42 that covered products collected by a recycling collection service are recycled by responsible
43 end markets apply to covered products that are:

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

45 (b) Identified on the uniform statewide collection list and collected pursuant to a col-

1 **lection program providing the opportunity to recycle;**

2 **(c) Identified on the list of specifically identified materials; or**

3 **(d) Recycled in an effort to achieve the statewide plastic recycling goal established under**
4 **section 27 of this 2021 Act.**

5 **(8) A producer responsibility organization shall make available on the organization's**
6 **website and update at least once per calendar quarter:**

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

8 **(b) The identity of any members that are currently not in compliance with sections 1 to**
9 **43 of this 2021 Act and the reason for noncompliance.**

10 **(9)(a) If the Department of Environmental Quality approves more than one producer re-**
11 **sponsibility program, the producer responsibility organizations with approved programs shall**
12 **establish a producer responsibility organization coordinating body and submit a coordination**
13 **plan to the department for approval. If requested by the producer responsibility organiza-**
14 **tions, the department may serve as the coordinating body or may form or oversee the co-**
15 **ordinating body.**

16 **(b) The Environmental Quality Commission shall establish by rule:**

17 **(A) Methods for calculating market share;**

18 **(B) Standards and requirements for coordination plans and coordination between pro-**
19 **ducer responsibility organizations;**

20 **(C) A process for submittal, review, approval or rejection and revocation of coordination**
21 **plans; and**

22 **(D) A process for the department to issue an order requiring a coordination plan.**

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

26 **(d) A coordination plan approved or ordered by the department is valid until revoked or**
27 **a new coordination plan is approved by the department.**

28 **(e) The producer responsibility organization coordinating body shall submit for approval**
29 **a new coordination plan on a schedule that coincides with the schedule for producer re-**
30 **sponsibility organizations to submit new producer responsibility program plans.**

31 **(10) A producer responsibility organization must ensure that each member of its organ-**
32 **ization complies with subsection (5) of this section. The organization shall notify the de-**
33 **partment within 30 days of:**

34 **(a) The end of a three-month period in which the organization unsuccessfully attempted**
35 **to obtain a membership fee or records or information from a producer under subsection (5)**
36 **of this section; or**

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

38 **(11) A producer responsibility organization must provide contact information for any of**
39 **the organization's registered members to the department upon request.**

40 **(12) No later than December 31 of each year in which an approved producer responsibility**
41 **program plan is required to be operated in this state, a producer responsibility organization**
42 **must have members with a combined market share, calculated in accordance with rules es-**
43 **tablished in this section, that is at least 10 percent of the total combined market share of**
44 **all producers of covered products.**

45 **(13)(a) A producer may demonstrate to the department that a material is exempt from**

1 the requirements for a covered product if the material:

2 (A) Is collected through a recycling collection service not provided under the opportunity
3 to recycle;

4 (B) Does not undergo separation from other materials at a commingled recycling pro-
5 cessing facility; and

6 (C) Is recycled at a responsible end market.

7 (b) If only a portion of the material sold in or into this state by a producer meets the
8 criteria of paragraph (a) of this subsection, the portion that meets the criteria is exempt and
9 the portion that does not meet the criteria is a covered product.

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

12 (2) The Environmental Quality Commission may adopt rules to exempt from the re-
13 quirements of section 4 of this 2021 Act producers that do not exceed a minimum market
14 share of covered products sold in or into this state.

15 **SECTION 6. Producer responsibility program plan.** (1) A producer responsibility organ-
16 ization shall submit to the Department of Environmental Quality, in a form and manner
17 prescribed by the department, a plan for the development and implementation of a producer
18 responsibility program.

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

21 (a) Describe how the producer responsibility organization will manage and administer a
22 producer responsibility program to meet the organization's obligations under sections 1 to
23 43 of this 2021 Act, including a description of how the organization will:

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

27 (B) Provide for the collection of covered products identified by the Environmental Quality
28 Commission under section 22 (1)(b) of this 2021 Act and meet convenience and performance
29 standards for those covered products.

30 (C) Maximize the use of existing infrastructure.

31 (D) Ensure the responsible management of covered products identified in section 4 (7)
32 of this 2021 Act and other contaminants collected with those covered products.

33 (E) Establish, calculate and charge membership fees, including incentives, as described
34 in section 11 of this 2021 Act.

35 (F) Encourage producers to make continual reductions in the environmental and human
36 health impacts of covered products through a graduated fee structure as described in section
37 11 of this 2021 Act.

38 (G) Ensure that covered products identified in section 4 (7) of this 2021 Act and collected
39 for recycling, and contaminants collected with those covered products, are managed and
40 disposed of consistent with the goals, standards and practices required by sections 1 to 43
41 of this 2021 Act.

42 (H) Ensure that covered products collected for recycling will be transferred to responsi-
43 ble end markets, including:

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

1 (ii) Whether any of those responsible end markets are certified for environmental and
2 social sustainability by certification programs approved by the commission under section 37
3 of this 2021 Act;

4 (iii) How the organization will follow the hierarchy of materials management options de-
5 scribed in ORS 459.015 (2);

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

8 (v) Arrangements the producer responsibility organization has made with processors to
9 ensure that covered products identified in section 22 of this 2021 Act are recycled at a re-
10 sponsible end market, including any investment intended to be made to support processors.

11 (I) Ensure that any material that will be marketed for use through a method other than
12 mechanical recycling will be transferred to a responsible end market, including:

13 (i) A description of how the proposed method will affect the ability of the material to be
14 recycled into feedstock for the manufacture of new products;

15 (ii) A description of how the proposed method will affect the types and amounts of plastic
16 recycled for food and pharmaceutical-grade applications;

17 (iii) A description of any applicable air, water and waste permitting compliance require-
18 ments; and

19 (iv) An analysis of the environmental impacts for the proposed method compared to the
20 environmental impacts of mechanical recycling, incineration and landfill disposal as solid
21 waste.

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

23 (i) A communications program for responding to questions involving the uniform state-
24 wide collection list and recycling services provided under section 15 of this 2021 Act;

25 (ii) Outreach to local governments to ensure information is accurate and consistent
26 across this state; and

27 (iii) Statewide promotional campaigns as described in section 14 of this 2021 Act.

28 (K) Implement the requirements of section 16 of this 2021 Act.

29 (L) Take actions to address the findings of any report submitted under section 29 of this
30 2021 Act since the organization's last plan or plan amendment was approved and implement
31 recommendations included in the report.

32 (M) Implement improvements identified by any study conducted under section 30 of this
33 2021 Act since the organization's last plan or plan amendment was approved.

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

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

38 (d) Describe how the producer responsibility organization will communicate and coordi-
39 nate with the department, the Oregon Recycling System Advisory Council, local govern-
40 ments, local governments' service providers, processors and any other producer
41 responsibility organizations and the topics of communication or coordination.

42 (e) Describe a process, including the process timeline, for how the producer responsibility
43 organization will resolve any disputes involving compensation of local governments and local
44 governments' service providers under section 13 of this 2021 Act and disputes involving
45 commingled recycling processing facilities under sections 24 and 25 of this 2021 Act.

- 1 **(f) Include projections on recycling rates for plastic.**
- 2 **(g) Describe any efforts the producer responsibility organization will make to support**
3 **collection, processing or responsible recycling of specifically identified materials, including:**
- 4 **(A) Any efforts to support or provide recycling depot or mobile collection of specifically**
5 **identified materials;**
- 6 **(B) Any efforts to use education and promotion to encourage proper participation in re-**
7 **cycling collection of specifically identified materials;**
- 8 **(C) Any investments to support the successful processing of specifically identified mate-**
9 **rials;**
- 10 **(D) Any efforts to develop or support responsible end markets for specifically identified**
11 **materials; and**
- 12 **(E) Any other efforts to ensure successful and responsible recycling of specifically iden-**
13 **tified materials.**
- 14 **(h) Describe the membership fee structure of the producer responsibility organization,**
15 **including a schedule of the membership fees actually charged to members.**
- 16 **(i) Demonstrate that the membership fees collected by the producer responsibility or-**
17 **ganization will provide adequate revenue to fund all costs associated with the producer re-**
18 **sponsibility program, including but not limited to costs for:**
- 19 **(A) The fees established under sections 31 and 32 of this 2021 Act;**
- 20 **(B) The collection, processing, transportation and disposal of covered products identified**
21 **in section 22 of this 2021 Act and collected for recycling, and contaminants collected with**
22 **those covered products;**
- 23 **(C) The development of educational resources under section 14 of this 2021 Act;**
- 24 **(D) Litter and marine debris cleanup and prevention programs under section 16 of this**
25 **2021 Act;**
- 26 **(E) Payment of fees to commingled recycling processing facilities under sections 24 and**
27 **25 of this 2021 Act; and**
- 28 **(F) Reimbursements and advance funding to local governments and local governments'**
29 **service providers under section 13 of this 2021 Act.**
- 30 **(j) For any program plan submitted by a producer responsibility organization following**
31 **its initial program plan, describe how adjustments to membership fees offered in response**
32 **to the requirements of section 11 of this 2021 Act have been modified in order to meet the**
33 **objectives described in paragraph (a)(F) of this subsection and section 11 of this 2021 Act or**
34 **in response to any evaluation conducted under section 12 of this 2021 Act during the time**
35 **period covered by the prior program plan.**
- 36 **(k) Describe how the producer responsibility organization will provide funding to allow**
37 **local governments to protect ratepayers from increased costs associated with the processing**
38 **and marketing of recyclables identified in section 22 of this 2021 Act.**
- 39 **(L) Include a process for promptly notifying the department, the Oregon Recycling Sys-**
40 **tem Advisory Council and producers of potential noncompliance with the requirements of**
41 **sections 1 to 43 of this 2021 Act by a producer or producer responsibility organization.**
- 42 **(m) Describe reserve funds or other contingency plans for responding to changes in**
43 **markets or other circumstances that could affect the effectiveness of the program, including**
44 **the amount of funds in reserve and a description of what contingencies those reserve funds**
45 **will be sufficient to address.**

1 (n) Include a closure plan to settle the affairs of the producer responsibility organization
2 that ensures that producers will continue to meet their obligations in the event of dissolution
3 of the organization and that describes a process for notifying the department, the Oregon
4 Recycling System Advisory Council and local governments of the dissolution. The closure
5 plan must include sufficient reserve funds to allow the producer responsibility organization
6 to satisfy all obligations until such time as producer members have joined a different pro-
7 ducer responsibility organization.

8 (o) Include methods for advance funding, reimbursements and making payments to local
9 governments or local governments' service providers under section 13 of this 2021 Act.

10 (p) Describe how the producer responsibility organization will implement the require-
11 ments of section 13 (6) of this 2021 Act by establishing:

12 (A) A schedule for implementing collection program expansions and improvements
13 throughout this state;

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

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

18 (q) Include any other information required by the department to determine that a pro-
19 ducer responsibility organization is capable of meeting its obligations and ensuring the out-
20 comes required under sections 1 to 43 of this 2021 Act.

21 (3) Upon approval of the plan or a plan amendment by the department, a producer re-
22 sponsibility organization must implement the approved plan or plan amendment.

23 **SECTION 7. Approval by department.** (1)(a) The Department of Environmental Quality
24 shall approve, approve with conditions or reject a plan submitted under section 6 this 2021
25 Act or an amendment to a plan submitted under section 10 of this 2021 Act no later than 120
26 days after the date on which the department receives the plan or plan amendment from the
27 producer responsibility organization. The department shall approve a plan or a plan amend-
28 ment if the department determines to the satisfaction of the department that the plan or
29 plan amendment complies with the requirements of section 6 of this 2021 Act. If the depart-
30 ment rejects the plan or plan amendment, the department shall provide in writing the reason
31 for the rejection.

32 (b) If the department rejects a plan or plan amendment under paragraph (a) of this sub-
33 section, the producer responsibility organization must submit a revised plan or revised plan
34 amendment to the department no later than 60 days from the date of the rejection. The de-
35 partment shall either approve, approve with conditions or reject the revised plan or revised
36 plan amendment no later than 90 days after receiving the revised plan or revised plan
37 amendment. The department shall approve the revised plan or plan amendment if the de-
38 partment determines that the revised plan or plan amendment complies with the require-
39 ments of section 6 of this 2021 Act. If the department rejects the revised plan or revised plan
40 amendment, the department shall provide in writing the reason for the rejection and:

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

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

44 (c) If the department directs changes to a revised plan or plan amendment pursuant to
45 paragraph (b)(A) of this subsection, the producer responsibility organization must implement

1 **the changes or request a hearing under ORS chapter 183.**

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

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

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

7 **(e) If a producer responsibility organization requests a hearing or is subject to enforce-**
8 **ment pursuant to paragraph (c) or (d) of this subsection, the producer responsibility organ-**
9 **ization shall continue to implement a previously approved plan or, if there is no previously**
10 **approved plan in place, implement a plan at the direction of the department until a plan is**
11 **approved under this section.**

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

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

24 **(4) No less than 180 days before a plan approved under this section expires, a producer**
25 **responsibility organization shall submit a plan to be approved under this section for an ad-**
26 **ditional four years. A plan submitted for approval under this subsection must satisfy the**
27 **requirements of section 6 of this 2021 Act and describe any substantive changes from the**
28 **previously approved plan. Until a plan submitted under this subsection is approved, the pre-**
29 **viously approved plan remains in effect.**

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

31 **Sec. 7.** (1)(a) The Department of Environmental Quality shall approve, approve with conditions
32 or reject a plan submitted under section 6 this 2021 Act or an amendment to a plan submitted under
33 section 10 of this 2021 Act no later than 120 days after the date on which the department receives
34 the plan or plan amendment from the producer responsibility organization. The department shall
35 approve a plan or a plan amendment if the department determines to the satisfaction of the depart-
36 ment that the plan or plan amendment complies with the requirements of section 6 of this 2021 Act.
37 If the department rejects the plan or plan amendment, the department shall provide in writing the
38 reason for the rejection.

39 **(b) If the department rejects a plan or plan amendment under paragraph (a) of this subsection,**
40 **the producer responsibility organization must submit a revised plan or revised plan amendment to**
41 **the department no later than 60 days from the date of the rejection. The department shall either**
42 **approve, approve with conditions or reject the revised plan or revised plan amendment no later than**
43 **90 days after receiving the revised plan or revised plan amendment. The department shall approve**
44 **the revised plan or plan amendment if the department determines that the revised plan or plan**
45 **amendment complies with the requirements of section 6 of this 2021 Act. If the department rejects**

1 the revised plan or revised plan amendment, the department shall provide in writing the reason for
2 the rejection and:

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

4 (B) Require the producer responsibility organization to submit a second revision no later than
5 60 days from the date of the rejection.

6 (c) If the department directs changes to a revised plan or plan amendment pursuant to para-
7 graph (b)(A) of this subsection, the producer responsibility organization must implement the changes
8 or request a hearing under ORS chapter 183.

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

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

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

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

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

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

31 (4) No less than 180 days before a plan approved under this section expires, a producer re-
32 sponsibility organization shall submit a plan to be approved under this section for an additional
33 *[four]* **five** years. A plan submitted for approval under this subsection must satisfy the requirements
34 of section 6 of this 2021 Act and describe any substantive changes from the previously approved
35 plan. Until a plan submitted under this subsection is approved, the previously approved plan remains
36 in effect.

37 **SECTION 9. The amendments to section 7 of this 2021 Act by section 8 of this 2021 Act**
38 **become operative on April 1, 2027.**

39 **SECTION 10. Producer responsibility program plan amendments.** (1) A producer re-
40 sponsibility organization shall submit an amendment to a producer responsibility program
41 plan:

42 (a) **When proposing to change an approved producer responsibility program plan as it**
43 **relates to the producer responsibility organization's obligations:**

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

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

1 (C) Under section 22 of this 2021 Act.

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

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

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

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

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

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

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

12 (2) Not less than once per calendar quarter, a producer responsibility organization shall
13 provide written notice to the department and the Oregon Recycling System Advisory Council
14 of any changes made during the previous month to a producer responsibility program plan
15 that are changes for which an amendment is not required under subsection (1) of this sec-
16 tion.

17 SECTION 11. Membership fees charged by producer responsibility organization. (1) A
18 producer responsibility organization shall establish a schedule of membership fees to be paid
19 by members of the organization. Membership fees established pursuant to this section must
20 be sufficient to meet the financial obligations of the organization under sections 1 to 43 of
21 this 2021 Act. Membership fees must be designed to differentiate between types of covered
22 products, and the materials and formats that comprise those covered products. Membership
23 fees charged for different covered product types, materials and formats must be proportional
24 to the costs to the producer responsibility organization for that covered product type, ma-
25 terial or format.

26 (2) A schedule established under this section must establish material-specific base fee
27 rates for all covered products sold or distributed in or into this state by a member of the
28 producer responsibility organization. The base fee paid by each producer member shall be
29 calculated by multiplying the material-specific base fee rate by the total amount of covered
30 products of each material sold or distributed by the producer in or into this state.

31 (3) Covered products sold or distributed in or into this state that are not accepted by
32 recycling collection programs in this state must be assessed base fee rates that on average
33 are higher than the average for covered products that are accepted by recycling collection
34 programs in this state and must be assessed fees that are approximately proportional to
35 their relative contribution to the financial obligations of the producer responsibility organ-
36 ization.

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

1 (a) The post-consumer content of the material, if the use of post consumer content in
2 the covered product is not prohibited by federal law;

3 (b) The product-to-package ratio;

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

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

7 (5) Notwithstanding subsections (2) to (4) of this section, a producer responsibility or-
8 ganization may propose to the Department of Environmental Quality in a plan or plan
9 amendment an alternative membership fee structure. The department may approve an al-
10 ternative membership fee structure if the department determines that the structure:

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

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

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

19 (7) A producer responsibility organization shall accept the value of print and online ad-
20 vertising services in lieu of all or a portion of a membership fee described in this section
21 from members that are newspaper or magazine publishers. The producer responsibility or-
22 ganization may consider the in-state reach of the advertising when determining the value
23 of the advertising.

24 **SECTION 12. Annual report.** (1) No later than July 1 of each year, a producer responsi-
25 bility organization must submit to the Department of Environmental Quality for approval
26 by the department an annual report on the development, implementation and operation of
27 the producer responsibility program. The annual report must:

28 (a) Cover the prior calendar year;

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

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

31 (2) The annual report must include:

32 (a) A list of the producers that participated in the producer responsibility program;

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

35 (c) The total amount, by weight and type of material, of covered products sold or dis-
36 tributed in or into this state by participating producers in the prior calendar year;

37 (d) A description of the producer responsibility organization's efforts, including efforts
38 involving processors, to ensure that the collected covered products were responsibly man-
39 aged and delivered to responsible end markets;

40 (e) A complete accounting and summary of payments requested by local governments and
41 local governments' service providers and paid by the producer responsibility organization
42 under section 13 of this 2021 Act;

43 (f) A description of all expansions and improvements to recycling collection systems that
44 have been paid for by the producer responsibility organization, whether those expansions or
45 improvements have been implemented, the funds provided for such expansions and improve-

1 ments, and what collection programs are still scheduled for expansions or improvements in
2 the remaining duration of the producer responsibility program plan;

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

5 (h) A summary of payments requested by local governments or local governments' ser-
6 vice providers that were denied or reduced by the producer responsibility organization;

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

11 (j) A summary of the financial status of the producer responsibility organization, in-
12 cluding annual expenditures, revenues and assets;

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

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

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

18 (L) A description of activities undertaken by the producer responsibility organization that
19 relate to the requirements of section 16 of this 2021 Act, including an accounting of expen-
20 ditures;

21 (m) A description of activities undertaken by the producer responsibility organization
22 that relate to the uniform statewide collection list and the specifically identified materials
23 list;

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

28 (o) A summary of efforts taken by the producer responsibility organization to meet the
29 statewide plastic recycling goal established under section 27 of this 2021 Act and efforts
30 planned to maintain performance in meeting the goal or, if the goal has not been met, efforts
31 planned to meet the goal;

32 (p) The results of any in-person site inspections, material tracking or other audits con-
33 ducted during the reporting year, including whether any major safety or environmental
34 management practices were not properly followed and, if so, the corrective actions taken;

35 (q) Recommendations for any changes to the producer responsibility organization's plan
36 to improve recovery and recycling;

37 (r) A summary of the quarterly reports described in subsection (6) of this section and
38 an evaluation of the adequacy of responsible end markets;

39 (s) A summary of actions actually taken or planned by the organization to improve re-
40 sponsible end markets, processing infrastructure or the resiliency of the producer responsi-
41 bility program;

42 (t) A summary of efforts taken to implement recommendations to improve equity in the
43 recycling system identified in a report under section 29 of this 2021 Act;

44 (u) The number of producers that received each type of membership fee adjustment of-
45 fered under section 11 of this 2021 Act and the amount of covered products, by material and

1 format, for which producers received each type of adjustment;

2 (v) An evaluation of the effectiveness of membership fee adjustments at encouraging
3 producers to reduce the environmental and human health impacts of covered products, with
4 relation to the factors and criteria used by the producer responsibility organization's mem-
5 bership fee structure;

6 (w) An evaluation of the producer responsibility organization's compliance with sections
7 1 to 43 of this 2021 Act and, if necessary, actions that will be taken to achieve compliance;

8 (x) A report by an independent certified public accountant, retained by the producer re-
9 sponsibility organization at the organization's expense, on the accountant's audit of the
10 organization's financial statements;

11 (y) The results of any nonfinancial audits or assessments measuring performance or
12 outcomes;

13 (z) A description of activities undertaken by the producer responsibility organization that
14 relate to the educational resources and promotional campaigns described in section 14 of this
15 2021 Act; and

16 (aa) Any other information required by the department.

17 (3)(a) A producer responsibility organization shall include in a report submitted under
18 this section a confidential addendum containing information on the membership fees paid to
19 the producer responsibility organization by individual members and information that can be
20 used to calculate the market share of individual members in accordance with rules adopted
21 by the commission under section 4 of this 2021 Act. Information included in the confidential
22 addendum is not subject to public disclosure under ORS 192.311 to 192.478, except that the
23 department may disclose summarized information or aggregated data if the information or
24 data do not directly or indirectly identify the amount of membership fees paid by any indi-
25 vidual producer.

26 (b) The report must also aggregate and summarize the information described in para-
27 graph (a) of this subsection in a manner that does not directly or indirectly identify the
28 amount of membership fees paid by any individual producer.

29 (4) The department shall review reports submitted under this section and solicit feedback
30 on each report from the Oregon Recycling System Advisory Council. The department shall
31 make each report available for public comment for a period of not less than 30 days. The
32 department shall submit the comments of the department, the council and the public to the
33 producer responsibility organization. The department shall approve reports that meet the
34 requirements of this section to the satisfaction of the department.

35 (5)(a) If the department does not approve a report under subsection (4) of this section,
36 the department must provide the producer responsibility organization with written notice of
37 revisions necessary for approval and the timeline for resubmittal.

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

39 (A) The revised report required under paragraph (a) of this subsection is not timely
40 submitted; or

41 (B) The revised report does not meet the requirements of this section to the satisfaction
42 of the department.

43 (6) No later than 45 days after the end of each calendar quarter, a producer responsibility
44 organization shall provide a materials disposition report to the department describing the
45 final disposition during that calendar quarter of all materials for which the organization is

1 responsible. The report required under this subsection must include:

2 (a) The final end markets of the materials;

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

4 (c) A description of any disposition that does not meet the standards described in section
5 15 (2) of this 2021 Act; and

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

8 **SECTION 13. Compensation to local governments and local government service providers.**

9 (1) A producer responsibility organization shall, upon request, fund in advance or reimburse,
10 as appropriate, the eligible expenses of a local government or the local government's service
11 provider for eligible costs as provided in this section.

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

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

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

19 (B) The transport of covered products from a recycling depot if the recycling depot is
20 not designated or authorized by a local government as part of the recycling program oper-
21 ated by the local government or the local government's service provider.

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

23 (D) The transport of covered products for distances greater than the distance to the
24 closest commingled recycling processing facility or responsible end market with capacity to
25 accept the covered products.

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

28 (c) The commission shall establish by rule methods for determining funding or re-
29 imbursement amounts under this subsection. Methods may include payments based on zones
30 and must account for proximity to an appropriate commingled recycling processing facility
31 or responsible end market that has capacity to process or recycle the material and other
32 factors that could affect transportation costs.

33 (3) The costs of periodically evaluating the quality and contamination of collected mate-
34 rials as required by section 28 of this 2021 Act, if the evaluation occurs at a location other
35 than a commingled recycling processing facility, are eligible costs for funding or reimburse-
36 ment by a producer responsibility organization.

37 (4)(a) The costs of contamination reduction programming for residential and commercial
38 customers required by section 28 of this 2021 Act and the cost of similar contamination re-
39 duction programming provided by local governments not subject to the requirements of
40 section 28 of this 2021 Act are eligible costs for funding or reimbursement by a producer
41 responsibility organization.

42 (b) The commission shall establish by rule methods for determining funding or re-
43 imbursement amounts under this subsection. Rules adopted under this subsection may not
44 require producer responsibility organizations to provide funding or reimbursement of more
45 than \$3 per capita per year, based on the population of a local government or, if the local

1 government is a county, the population of the unincorporated area of the county.

2 (5)(a) The costs of upgrading or establishing recycling at multifamily facilities to meet
3 the requirements of ORS 90.318 and recommendations of the study under section 30 of this
4 2021 Act are eligible costs for funding or reimbursement by a producer responsibility organ-
5 ization.

6 (b) A producer responsibility organization shall work with local governments, collection
7 service providers and other affected parties as provided in this subsection to provide recycl-
8 ing service to multifamily properties that do not receive recycling service or that do not
9 meet standards for adequate recycling service.

10 (c) The commission shall adopt by rule standards for:

11 (A) Eligible costs under this subsection, including:

12 (i) Site improvements such as site preparation and construction of recycling enclosures;
13 and

14 (ii) Containers, signage and initial education and promotion materials; and

15 (B) Direct funding or reimbursement of eligible costs by the producer responsibility or-
16 ganization.

17 (d) Subject to approval by the local government in consultation with the local collection
18 service provider, a producer responsibility organization may directly fund partially fund, or
19 reimburse the property owner or manager of multifamily housing properties for activities
20 described in paragraph (c)(A)(i) of this subsection.

21 (e) Producer responsibility organizations will be required to expend in Oregon no more
22 than \$5 million per year, in the aggregate, on multifamily housing property site improve-
23 ments as described in paragraph (c)(A)(i) of this subsection. Funding for site improvements
24 shall be directed to multifamily housing properties that are located in low-income areas or
25 provide housing to tenants, the majority of whom are low-income.

26 (6)(a) Costs associated with the expansion and provision of recycling collection services
27 for covered products as provided in this subsection are eligible costs for funding or re-
28 imbursement by a producer responsibility organization.

29 (b) A local government that commits to expanding recycling opportunities during the
30 needs assessment conducted under subsection (9) of this section is eligible for funding or
31 reimbursements under this subsection. A producer responsibility organization shall work
32 with local governments to determine the services the local government is requesting and the
33 schedule by which the new program will be implemented, and shall provide funding for the
34 new programs in advance of or concurrent with implementation.

35 (c) A producer responsibility organization shall provide funding for activities requested
36 by local governments through the periodic needs assessment under subsection (9) of this
37 section.

38 (d) Eligible costs under this subsection include:

39 (A) For on-route programs, start-up costs, including but not limited to trucks, contain-
40 ers, promotional literature and, if necessary and none other is available, a recycling reload
41 facility for reloading recyclables, including any compaction equipment necessary for the re-
42 cycling reload facility; and

43 (B) For recycling depots, containers, on-site monitoring equipment, site preparation or
44 other start-up costs and operational costs, including staffing.

45 (7) The costs of complying with section 21 of this 2021 Act, to the extent that the use of

1 post-consumer recycled material is more expensive than the lowest priced alternative, are
2 eligible costs for funding or reimbursement by a producer responsibility organization.

3 (8) The costs associated with other recycling system improvements for covered products
4 as determined by the commission by rule are eligible costs for funding or reimbursement by
5 a producer responsibility organization.

6 (9)(a) The Department of Environmental Quality shall conduct a statewide needs assess-
7 ment in partnership with local governments and local governments' service providers to de-
8 termine local interest in expanding collection options and recycling depots in areas not
9 served with those collection opportunities, provided that funds are made available to the lo-
10 cal programs for expansion.

11 (b) The needs assessment shall include a process for local governments to request ser-
12 vices and commit to providing additional services.

13 (c) The department shall periodically repeat the assessment and may conform the timing
14 of the assessment to coincide with the schedule for producer responsibility organizations to
15 submit new producer responsibility program plans.

16 (10) A local government or local government's service provider requesting reimburse-
17 ment under this section shall submit an accounting of its costs to a producer responsibility
18 organization.

19 (11) A producer responsibility organization shall remit payment for expenses under this
20 section to a local government or the local government's service provider or other person
21 authorized by the local government to receive payment within 60 days of receiving a request
22 for payment. A producer responsibility organization shall provide written notification to the
23 local government of any payments remitted to a person authorized by the local government
24 to receive payment.

25 (12)(a) The department may review or audit the cost accounting and reimbursement re-
26 quest records of a producer responsibility organization, a local government or the local
27 government's service provider that receives payment under this section.

28 (b) The department shall require a local government or a local government's service
29 provider that receives advance funding under this subsection and does not use the moneys
30 for the purposes for which the funding was provided to return the funding to the producer
31 responsibility organization, according to standards established by the commission by rule.

32 (c) Information furnished to the department under paragraph (a) of this subsection may
33 be designated confidential. Information designated confidential is not subject to public dis-
34 closure under ORS 192.311 to 192.478, except that the department may disclose the informa-
35 tion in a summarized or aggregate form.

36 (13) A local government shall identify to the department the local government's service
37 providers that are authorized to receive funding or reimbursement directly, as described in
38 this section, from producer responsibility organizations in the periodic report submitted ac-
39 cording to the requirements of ORS 459A.050.

40 (14) A local government, local government's service provider or multifamily property
41 owner or manager that has received funds for expansion or improvements to recycling col-
42 lection under this section shall report to the producer responsibility organization when the
43 expansion or improvements have been fully implemented. A local government, local
44 government's service provider or multifamily property owner or manager must also report
45 the status of implementation to the producer responsibility organization on an annual basis

1 for any funded collection program that has not been fully implemented, so that the producer
2 responsibility organization may include that information in the annual report required under
3 section 12 of this 2021 Act.

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

7 **SECTION 14. Development of educational resources.** (1) A producer responsibility organ-
8 ization, in consultation with the Oregon Recycling System Advisory Council, shall develop
9 educational resources and promotional campaigns to promote the uniform statewide col-
10 lection list. Resources and campaigns developed under this section must include, but need
11 not be limited to:

12 (a) A description of materials identified for recycling as described in section 22 of this
13 2021 Act;

14 (b) Requirements to properly prepare materials for recycling;

15 (c) Education on the importance of not placing contaminants in commingled recycling
16 collection; and

17 (d) Container signs or decals.

18 (2) A producer responsibility organization must provide opportunities for local govern-
19 ments and local governments' service providers to review and comment on draft materials
20 developed under this section.

21 (3) Educational resources and campaigns developed under this section must be:

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

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

25 (c) Accessed easily and at no cost to local governments and users of the recycling sys-
26 tem.

27 (4) A producer responsibility organization shall make the educational resources developed
28 under this section available in a form that allows each local government or the local
29 government's service providers to customize the resources to reflect local conditions.

30 (5) When reviewing and commenting on a producer responsibility organization's draft
31 materials under subsection (2) of this section, a local government must take responsibility
32 to ensure that the educational resources and campaigns being developed by the producer
33 responsibility organization meet the needs of diverse audiences within the local government's
34 community.

35 (6) A local government that provides the opportunity to recycle or the local government's
36 service provider shall utilize and distribute educational resources developed under this sec-
37 tion. A local government or the local government's service provider may incorporate the
38 educational resources developed under this section into an existing education program de-
39 veloped to satisfy the requirements of ORS 459A.007 and 459A.008.

40 (7) A producer responsibility organization shall coordinate and fund the distribution of
41 statewide promotional campaigns developed under this section at least once per calendar
42 year through media channels that may include, but need not be limited to, print publications,
43 radio, television, the Internet and online streaming services.

44 (8)(a) Except as provided in paragraph (b) of this subsection, educational resources and
45 campaigns developed under this section must be reviewed by the council and approved by the

1 Department of Environmental Quality before public distribution.

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

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

8 **SECTION 15. Other duties of producer responsibility organization.** (1) A producer re-
9 sponsibility organization must provide for the collection and responsible recycling of covered
10 products identified by the Environmental Quality Commission under section 22 (1)(b) of this
11 2021 Act, in a way that meets collection targets, convenience standards and performance
12 standards established under section 22 of this 2021 Act, by:

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

15 (b) Establishing and operating other drop off centers for the covered product;

16 (c) Establishing and operating collection events for the covered product; or

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

19 (2) A producer responsibility organization shall, to the extent practicable, ensure that
20 covered products collected in this state for the purpose of recovery and described in section
21 4 (7) of this 2021 Act will be:

22 (a) Delivered to responsible end markets;

23 (b) Managed according to the hierarchy of materials management options under ORS
24 459.015 (2); and

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

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

28 **SECTION 16. Litter and marine debris cleanup and prevention program.** (1) No later than
29 July 1, 2028, a producer responsibility organization shall establish and implement a program
30 to clean up and prevent litter and marine debris. A producer responsibility organization's
31 litter prevention program shall provide grants or direct payments to eligible entities to carry
32 out litter and marine debris prevention, cleanup and research. A producer responsibility or-
33 ganization must incorporate into a program the findings of the needs assessment conducted
34 under subsection (5) of this section. Entities eligible for a grant include, but are not limited
35 to:

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

37 (b) Tribal governments; and

38 (c) Nonprofit organizations.

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

42 (3) A producer responsibility organization must consider the needs of economically dis-
43 tressed or underserved communities when providing grants to an eligible entity.

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

45 (A) Must be prioritized according to rules adopted by the Environmental Quality Com-

1 mission;

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

3 (C) May not be for:

4 (i) Street sweeping;

5 (ii) Major dumpsite cleanup; or

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

8 (b) The expenditures described in subsection (2) of this section are in addition to any
9 costs to a producer responsibility organization for the administration of the grants, pay-
10 ments or research.

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

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

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

23 (6) Beginning July 1, 2030, the commission shall annually adjust the minimum expendi-
24 ture amount specified in subsection (2) of this section by multiplying the amount by the
25 percentage change in the monthly averaged Consumer Price Index for All Urban Consumers,
26 West Region (All Items), as published by the Bureau of Labor Statistics of the United States
27 Department of Labor, for the 12 consecutive months ending on the immediately preceding
28 June 30 compared to the monthly averaged Consumer Price Index for All Urban Consumers,
29 West Region (All Items), for the 12 consecutive months ending on June 30, 2029.

30
31 (Oregon Recycling System Advisory Council)

32
33 **SECTION 17. Oregon Recycling System Advisory Council established.** (1) The Oregon
34 Recycling System Advisory Council is established.

35 (2)(a) The council consists of 17 members appointed by the Governor as follows:

36 (A) Four representatives of local governments;

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

39 (C) One owner or operator of a small business that is not eligible for representation un-
40 der subparagraph (E) or (F) of this paragraph;

41 (D) Two representatives of environmental nonprofit organizations;

42 (E) Four representatives of the recycling industry, including collectors, processors or
43 material end users; and

44 (F) Four representatives of producers of covered products or producer trade associations
45 or suppliers. Any members appointed to the council that are producers of covered products

1 shall belong to a producer responsibility organization and represent different industries.

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

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

6 (b) Before the expiration of the term of a member, the Governor shall appoint a succes-
7 sor whose term begins on July 1 following the appointment. A member is eligible for reap-
8 pointment.

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

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

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

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

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

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

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

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

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

30 (b) Advise the Department of Environmental Quality and producer responsibility organ-
31 izations on issues related to the implementation of sections 1 to 43 of this 2021 Act;

32 (c) Review producer responsibility program plans submitted under section 6 of this 2021
33 Act, plan amendments submitted under section 10 of this 2021 Act and program reports
34 submitted under section 12 of this 2021 Act;

35 (d) Make recommendations to the department and producer responsibility organizations
36 related to the establishment and maintenance of the list of specifically identified materials;

37 (e) Make recommendations to the department and producer responsibility organizations
38 about any other material that should not be included as a covered product; and

39 (f) Make written recommendations to the department and producer responsibility organ-
40 izations on matters that the council determines are beneficial to the public interest, includ-
41 ing:

42 (A) Matters related to producer responsibility program plans created to satisfy the re-
43 quirements of section 6 of this 2021 Act, program plan audits and reports required by the
44 plans, including:

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

1 (ii) Recycling depot or mobile collection events for recyclable items; and
2 (iii) Other aspects of a producer responsibility program intended to improve access to
3 recycling, including access for residents of multifamily housing.

4 (B) The uniform statewide collection list.

5 (C) The manner in which producer responsibility organization fees will be distributed to
6 local governments or local governments' service providers under section 13 of this 2021 Act,
7 including:

8 (i) Review of statewide transportation, reload reimbursement and other formulaic ele-
9 ments; and

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

12 (D) Statewide educational resources and campaigns.

13 (E) The manner in which producer responsibility organization fees will be distributed to
14 processors to improve infrastructure.

15 (2) The council may only adopt recommendations upon a vote of a majority of the mem-
16 bers of the council.

17 (3) No later than September 15 of each even-numbered year, the council shall submit to
18 interim committees of the Legislative Assembly related to the environment, in the manner
19 provided by ORS 192.245, a report that describes the recommendations of the council.

20 (4) Within 45 days of receiving written recommendations from the council under sub-
21 section (1)(d) or (f) of this section, a producer responsibility organization must provide a
22 written response to the council, including reasons why any recommendations were not ac-
23 cepted.

24 (5) Within 60 days of receipt of written recommendations provided under subsection (1)(d)
25 or (f) of this section, the department shall provide a written response to the council, in-
26 cluding reasons why any recommendations were not accepted.

27
28 (Responsibilities of Local Governments)
29

30 **SECTION 19. Prohibition on delivery of commingled recyclables to certain facilities.** (1)
31 As used in this section, "commingled recycling reload facility" means a facility that receives
32 commingled recyclables collected by a local government or local government's service pro-
33 vider as an intermediate step prior to delivery to a commingled recycling processing facility.

34 (2) A local government, the local government's service provider or a commingled recycl-
35 ing reload facility may not deliver to a commingled recycling processing facility commingled
36 recyclables that were collected pursuant to the uniform statewide collection list established
37 under section 22 of this 2021 Act unless:

38 (a) At the time the local government, the local government's service provider or the
39 commingled recycling reload facility delivered or contracted to deliver or transport materials
40 to the commingled recycling facility:

41 (A) The commingled recycling facility held a valid permit issued under section 37 of this
42 2021 Act; or

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

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

45 (ii) The facility certified that it otherwise met the requirements of section 37 or 38 of this

1 **2021 Act, even though the facility did not hold a permit or certificate.**

2 **(b) Within six months after the Department of Environmental Quality completes a report**
3 **under section 29 of this 2021 Act, the commingled recycling processing facility has taken**
4 **steps to implement any recommendations of the report related to providing opportunities in**
5 **the recycling industry for women and minority individuals as defined in ORS 200.005.**

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

7 **Sec. 19.** (1) As used in this section, “commingled recycling reload facility” means a facility that
8 receives commingled recyclables collected by a local government or local government’s service
9 provider as an intermediate step prior to delivery to a commingled recycling processing facility.

10 (2) A local government, the local government’s service provider or a commingled recycling re-
11 load facility may not deliver to a commingled recycling processing facility commingled recyclables
12 that were collected pursuant to the uniform statewide collection list established under section 22
13 of this 2021 Act unless:

14 (a) At the time the local government, the local government’s service provider or the commingled
15 recycling reload facility delivered or contracted to deliver or transport materials to the commingled
16 recycling facility:

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

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

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

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

23 **(b) The processor ensures the health, safety and wellness of workers at the facility re-**
24 **gardless of whether the workers are employees, independent contractors or employees of**
25 **another business.**

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

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

32 **SECTION 20. Other duties of local governments.** A local government providing the op-
33 **portunity to recycle must, for the recycling collection of materials identified on the uniform**
34 **statewide collection list at multifamily properties:**

35 (1) **Ensure adequate space for collection.**

36 (2) **Demonstrate a plan to ensure adequate space and access for collection vehicles after**
37 **new construction or significant remodels.**

38 (3) **Update or establish service standards for service providers to provide adequate ser-**
39 **vice volume or collection frequency, or a combination of both.**

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

42 (5) **Report on activities to meet the requirements of this section in the periodic report**
43 **submitted according to the requirements of ORS 459A.050.**

44 **SECTION 21. Roll carts.** A local government shall ensure that roll carts, bins and con-
45 **tainers purchased by the local government’s service providers are manufactured from at**

1 least 10 percent post-consumer recycled material and are certified by an independent verifi-
2 cation standard, such as the Postconsumer Resin Certification Program established by the
3 Association of Plastic Recyclers.

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

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

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

14 (b) Covered products of which a producer responsibility organization must provide for the
15 collection through depot or mobile collection events as provided in section 15 of this 2021 Act.

16 (2) When identifying materials and collection methods under subsection (1)(a) of this
17 section, the same material may be collected via on-route collection or at recycling depots in
18 different geographic areas, as determined by local governments consistent with the require-
19 ments of ORS 459A.005 and 459A.007.

20 (3) In determining whether a material should be included in a commingled recycling
21 program for the uniform statewide collection list, collected separately, collected on-route or
22 collected at a recycling depot, or whether a covered product should be collected by a pro-
23 ducer responsibility organization under subsection (1)(b) of this section, the commission shall
24 consider:

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

26 (b) Environmental health and safety considerations;

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

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

29 (e) The amount of the material available;

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

31 (g) Contamination;

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

33 (i) Economic factors;

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

35 (k) The policy expressed in ORS 459.015 (2)(a) to (c).

36 (4) The Department of Environmental Quality shall establish and maintain a uniform
37 statewide collection list of materials that are appropriate to be collected through a
38 commingled recycling program. The list established under this subsection must include:

39 (a) The materials identified by the commission as suitable for commingled recycling un-
40 der subsections (1)(a) and (2) of this section; and

41 (b) Covered products if any, proposed by a producer responsibility organization for addi-
42 tion to the uniform statewide collection list in a producer responsibility program plan or plan
43 amendment and approved by the department under section 7 of this 2021 Act.

44 (5) Except as provided in subsection (6) of this section, a material may not be collected
45 as part of a commingled recycling program unless the material is identified for collection as

1 part of a commingled recycling program on the uniform statewide collection list.

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

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

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

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

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

11 **SECTION 23. Specifically identified materials.** (1) The Department of Environmental
12 Quality, in consultation with producer responsibility organizations and the Oregon Recycling
13 System Advisory Council, shall establish and maintain a list of specifically identified materi-
14 als.

15 (2) In determining whether a covered product is a specifically identified material, the
16 department shall consider criteria that include, but need not be limited to:

17 (a) Whether recycling processing equipment improvements are needed to sort the mate-
18 rial and when producer responsibility organizations will fund those improvements;

19 (b) The availability of viable responsible end markets for the material;

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

21 (d) Whether the inclusion of the covered product in recycling collection programs could
22 cause an increase in costs.

23 **SECTION 24. Contamination management fee.** (1) The Environmental Quality Commis-
24 sion shall by rule adopt and periodically revise a contamination management fee to be paid
25 by producer responsibility organizations to commingled recycling processing facilities to
26 compensate the facilities for the costs of removing and disposing covered products that are
27 contaminants. The amount of the fee shall be based on the result of the study conducted
28 under subsection (2) of this section. Rules adopted under this section must:

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

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

33 (c) Establish a review process to ensure that the fee is appropriately charged.

34 (2) The Department of Environmental Quality shall contract with an independent organ-
35 ization to conduct the study under this subsection. The study must:

36 (a) Estimate the cost to commingled recycling processing facilities of removing and dis-
37 posing of covered products that are contaminants, reported as the cost per ton of covered
38 products; and

39 (b) Estimate the costs to commingled recycling processing facilities of removing and
40 disposing of all contaminants, reported as the cost per ton of all contaminants.

41 (3) A commingled recycling processing facility that does not participate in the review
42 process described in subsection (1) of this section or the study described in subsection (2)
43 of this section is not eligible to receive a contamination management fee.

44 (4) Any proprietary information provided to the department under subsection (1) of this
45 section or to a person conducting a study under subsection (2) of this section may be desig-

1 nated confidential by a commingled recycling processing facility. Information designated
2 confidential is not subject to public disclosure under ORS 192.311 to 192.478, except that in-
3 formation may be disclosed as summarized or aggregated data if doing so does not directly
4 or indirectly disclose the proprietary information of any specific facility.

5 (5) The department shall review the contamination management fee at least once every
6 five years. The department may not review the contamination management fee more fre-
7 quently than once per year.

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

9 (a) “Anticipated program cost” means all additional costs related to any new require-
10 ments of this 2021 Act that are anticipated prior to the next review of the processor com-
11 modity risk fee under subsection (6) of this section.

12 (b) “Average commodity value” means the average revenue paid by brokers or end mar-
13 kets, after processing by a commingled recycling processing facility, for a composite ton of
14 commingled material collected for recycling in Oregon.

15 (c)(A) “Eligible processing cost” means all costs associated with owning and operating a
16 commingled recycling processing facility as determined by the study conducted under sub-
17 section (3) of this section, including but not limited to sorting, handling, storing, disposal,
18 marketing and shipping, administration, rent, fees, depreciation, fixed costs, profit, the tar-
19 get price paid for commingled recycling collected from Oregon as described in subsection
20 (2)(d) of this section and anticipated program costs.

21 (B) “Eligible processing cost” does not include revenue from the sale of recyclables and
22 any costs that are reimbursed by producer responsibility organizations or other parties, in-
23 cluding the contamination management fee established under section 24 of this 2021 Act.

24 (2) The Environmental Quality Commission shall by rule adopt and periodically revise a
25 processor commodity risk fee to be paid by producer responsibility organizations to
26 commingled recycling processing facilities to ensure that producers share in the costs of
27 fully processing commingled recyclables that are covered products and to allow local gov-
28 ernments to reduce the financial impacts on ratepayers. The processor commodity risk fee
29 shall be based on the eligible processing costs of facilities less the average commodity value
30 of recyclable materials processed by facilities. Rules adopted under this section must:

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

33 (b) Provide that the fee may not be based on commingled recycling originating outside
34 of Oregon.

35 (c) Establish a review process to ensure that the fee is appropriately charged.

36 (d) For purposes of calculating the processor commodity risk fee, allow the average
37 compensation paid by commingled recycling processing facilities for commingled recyclables
38 collected from Oregon to target a price of \$10 per ton, expressed on the basis of compen-
39 sation per ton of delivered material.

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

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

44 (g) Allow local governments to protect ratepayers from cost increases associated with
45 the volatility of commodity markets.

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

5 (A) The average composition of materials by percentage in each mix, multiplied by pub-
6 lished market values;

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

8 (C) Any adjustments to published market values for each commodity to reflect conditions
9 in Oregon.

10 (3) Subject to subsection (6) of this section, the Department of Environmental Quality
11 shall contract with an independent organization to conduct the study under this subsection.

12 The study must:

13 (a) Estimate the average eligible processing cost at commingled recycling facilities that
14 process commingled recycling generated in Oregon; and

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

17 (4) A commingled recycling facility that does not participate in the review process de-
18 scribed in subsection (2) of this section or the study described in subsection (3) of this sec-
19 tion is not eligible to receive a processor commodity risk fee.

20 (5) Any proprietary information provided to the department under subsection (2) of this
21 section or to a person conducting a study under subsection (3) of this section may be desig-
22 nated confidential by a commingled recycling processing facility. Information designated
23 confidential is not subject to public disclosure under ORS 192.311 to 192.478, except that in-
24 formation may be disclosed as summarized or aggregated data if doing so does not directly
25 or indirectly disclose the proprietary information of any specific facility.

26 (6) The department shall contract for the study under subsection (3) of this section to
27 be performed at least once every five years. The department may contract for the study
28 under subsection (3) of this section to be performed no more than once per year. If a study
29 under subsection (3) of this section demonstrates that the average per-ton eligible processing
30 cost has changed by more than 10 percent since the commission last established the
31 processor commodity risk fee, the commission shall by rule revise the processor commodity
32 risk fee.

33 **SECTION 26.** (1) The Department of Environmental Quality shall study the
34 compostability of covered products and the effects of covered products on composting sys-
35 tems. In conducting the study, the department shall:

36 (a) Examine the effects of covered products on compost facilities and finished compost;

37 (b) Consider trends, challenges, opportunities and relevant policies relating to composting
38 and covered products;

39 (c) Consider the experience of compost facilities located in other states; and

40 (d) Develop recommendations for reducing environmental impacts while maintaining and
41 enhancing the environmental and economic sustainability of Oregon's compost industry.

42 (2) In conducting the study, the department shall consult with compost facilities serving
43 Oregon, local governments, producer responsibility organizations serving Oregon and the
44 Oregon Recycling System Advisory Council.

45 (3) The department shall submit a final report and recommendations for legislation in the

1 manner provided by ORS 192.245 to the interim committees of the Legislative Assembly re-
2 lated to the environment no later than December 15, 2026.

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

4 (a) "Plastic" means a material composed of synthetic polymers such as polyethylene,
5 polypropylene, polystyrene, polylactic acid and other similar polymers.

6 (b) "Plastic" does not include materials commonly referred to as rubber or materials that
7 are naturally produced polymers, such as proteins or starches.

8 (2)(a) It is the goal of the State of Oregon that the statewide recycling rate for plastic
9 be:

10 (A) At least 25 percent by calendar year 2028 and until calendar year 2039;

11 (B) At least 50 percent by calendar year 2040 and until calendar year 2049; and

12 (C) At least 70 percent by calendar year 2050 and each subsequent year, unless modified
13 by the Environmental Quality Commission by rule.

14 (b) Notwithstanding paragraph (a) of this subsection, the commission by rule, on or after
15 January 1, 2038, and after consideration of environmental, technical and economic conditions,
16 may adjust the statewide plastic recycling goal. An adjustment to the statewide plastic re-
17 cycling goal under this paragraph may not adjust the goal to less than 35 percent or more
18 than 70 percent.

19 (c) The recycling rate established under this subsection is separate from the recovery
20 rates calculated under ORS 459A.010 and the recycling rate calculated under ORS 459A.657.

21 (3) The Department of Environmental Quality shall annually determine whether the
22 statewide plastic recycling goal established under subsection (2) of this section has been met.
23 The department may require a producer responsibility organization to submit aggregated
24 information necessary for the department to make the determination under this subsection.

25 (4) If the department determines that the statewide recycling goal has not been met,
26 each producer responsibility organization shall, in the manner provided in section 10 of this
27 2021 Act, amend an existing producer responsibility program plan or submit a new producer
28 responsibility program plan that includes actions the organization will take to meet the
29 statewide plastic recycling goal.

30 (5) The recycling rate of plastic is calculated by dividing the total plastic waste generated
31 and recycled in this state by the total plastic waste generated in this state using the fol-
32 lowing data, unless otherwise specified by rule by the commission:

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

34 (b) Data from the waste composition studies specified in ORS 459A.035, combined with
35 data on the total amount of solid waste disposed as specified in ORS 459A.010 (3)(a);

36 (c) Information submitted by a producer responsibility organization under subsection (3)
37 of this section; and

38 (d) Other information made available to the department to estimate changes in the gen-
39 eration of plastic waste in years between the years when waste composition studies are
40 conducted.

41 (6) For purposes of determining the recycling rate of plastic, plastic:

42 (a) Includes post-consumer products and packaging made entirely of plastic or that con-
43 tain small amounts of easily removed nonplastic items, such as metal lids or metal handles
44 on plastic buckets; and

45 (b) Does not include plastic in multimaterial items such as electronics, automobiles, ap-

1 pliances or mixed-material toys.

2 **SECTION 28. Contamination reduction.** (1) The Department of Environmental Quality
3 shall:

4 (a) Establish statewide recycling contamination reduction goals.

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

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

9 (A) Customer-facing contamination reduction materials and methods that are responsive
10 to the needs of diverse populations;

11 (B) Standards for providing feedback to generators that contribute to contamination that
12 is responsive to the needs of diverse populations; and

13 (C) Standards for providing financial or service consequences to generators that are sig-
14 nificant and repeated sources of contamination and that continue to contaminate separated
15 recyclables after being subject to elements described in subparagraphs (A) and (B) of this
16 paragraph. Consequences must be responsive to the conditions of diverse populations.

17 (d) Once every four years:

18 (A) Review and summarize statewide information on contamination at the point of col-
19 lection, using data provided in accordance with section 39 of this 2021 Act, and revise the
20 statewide recycling contamination reduction goals, as appropriate; and

21 (B) Provide a written report in the manner provided by ORS 192.245 to the interim com-
22 mittees of the Legislative Assembly related to the environment. The report must include:

23 (i) A description of the effectiveness of the contamination reduction program elements;

24 (ii) Recommendations to maintain, revise or discontinue programs developed under this
25 section; and

26 (iii) Recommendations regarding the funding of contamination reduction programming
27 under section 13 (4) of this 2021 Act.

28 (2) A local government described in ORS 459A.007 (3) or a local government's service
29 provider that provides for the collection of source separated recyclables pursuant to ORS
30 459.250 or 459A.005 must establish and implement a program to reduce contamination that:

31 (a) Includes one or more local recycling contamination reduction goals that are consist-
32 ent with the statewide goals established in subsection (1) of this section.

33 (b) Causes collected source separated recyclables to undergo periodic evaluation of col-
34 lected material quality and contamination, in accordance with forms and procedures estab-
35 lished by the department under section 39 of this 2021 Act.

36 (c) Includes:

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

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

41 (d) Includes, at least once every five years, a process for reviewing, and revising as ap-
42 propriate, the local goals established in subsection (2)(a) of this section and local elements
43 established in subsection (2)(c) of this section.

44 (3) A local government or local government's service provider may not be required to
45 provide contamination reduction programming under this section to the extent that doing

1 so would require the use of funds other than advance funding or reimbursements available
2 under section 13 (4) of this 2021 Act.

3 **SECTION 29. Equity study.** (1) The Department of Environmental Quality, in consultation
4 with local governments and the Oregon Recycling System Advisory Council, shall conduct a
5 study of equity in Oregon's recycling system to determine conditions and make recommen-
6 dations, including goals to achieve continuous improvement. The department shall provide
7 public involvement opportunities for underserved communities during the study. The study
8 must include, but need not be limited to:

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

11 (b) The availability of opportunities in the recycling system for women and minority in-
12 dividuals as defined in ORS 200.005;

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

15 (d) The sufficiency of recycling education programs relative to desired equity outcomes;
16 and

17 (e) The availability of opportunities in the recycling system for Oregon and other Pacific
18 Northwest businesses.

19 (2)(a) Except as provided in paragraph (b) of this subsection, a person operating within
20 the recycling system in this state shall, upon request, furnish the department with infor-
21 mation necessary for the department to meet the requirements of subsection (1)(a) and (b)
22 of this section. Proprietary information furnished to the department under subsection (1)(a)
23 of this section is not subject to public disclosure under ORS 192.311 to 192.478, except that
24 the department may disclose summarized information or aggregated data if the information
25 or data do not directly or indirectly identify the proprietary information of any specific per-
26 son.

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

29 (3) The department shall report the results of the study and recommendations required
30 under this section to the Environmental Quality Commission. The commission shall approve
31 or reject the recommendations of the department and provide a copy of the report and ap-
32 proved recommendations to each producer responsibility organization and make the report
33 publicly available via the department's website.

34 (4) The department shall revise the study and report at least once every five years and
35 may conform the timing of the study to coincide with the schedule for producer responsibil-
36 ity organizations to submit new producer responsibility program plans.

37 (5) No later than one year after receiving a report and recommendations from the com-
38 mission under subsection (3) of this section, a producer responsibility organization shall
39 submit a new producer responsibility program plan or plan amendment describing to the
40 satisfaction of the department how it will implement changes to address the approved rec-
41 ommendations of the report as they relate to the producer responsibility organization's spe-
42 cific recycling system obligations.

43 **SECTION 30. Multifamily housing study.** (1) The Department of Environmental Quality,
44 in consultation with the Oregon Recycling System Advisory Council, shall conduct a state-
45 wide needs assessment to determine the challenges facing residents of multifamily housing

1 and make recommendations for improvements to allow for effective and equitable recycling
2 opportunities for residents of multifamily housing. The needs assessment conducted under
3 this section must include an evaluation of the placement of and quality of spaces provided
4 for recycling containers and recommendations for improving spaces that are determined to
5 be inadequate.

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

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

15 **SECTION 31. Fees.** (1) The Environmental Quality Commission shall establish the fol-
16 lowing fees:

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

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

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

26 (2) The department shall provide notice to a producer responsibility organization no later
27 than September 1 of each year of the annual fee required under subsection (1)(b) of this
28 section for the upcoming calendar year. Fees collected by the department under this section
29 shall be deposited in the State Treasury to the credit of the Producer Responsibility Fund
30 established under section 34 of this 2021 Act.

31 **SECTION 32. Waste prevention and reuse.** (1) As used in this section, “public body” has
32 the meaning given that term in ORS 174.109.

33 (2) The Department of Environmental Quality shall establish a program to reduce the
34 environmental impacts of covered products through means other than waste recovery, in-
35 cluding waste prevention and reuse. The department may enter into agreements with public
36 bodies to establish a program to reduce the environmental impacts of covered products. The
37 department may provide grants or loans in order to reduce the environmental impacts of
38 covered products. Entities eligible for a grant or loan include, but are not limited to:

39 (a) Public bodies;

40 (b) Tribal governments;

41 (c) Nonprofit organizations; and

42 (d) Private organizations, if the department determines that the funds would be used for
43 the public benefit.

44 (3) In providing grants or loans for programs under this section, the department must
45 consider criteria that include, but are not limited to:

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

6 (4) In addition to the fees established under section 31 of this 2021 Act, the Environ-
7 mental Quality Commission shall establish a waste prevention and reuse fee to be paid by
8 producer responsibility organizations. The fee established under this subsection must be
9 reasonably calculated to support the waste prevention and reuse programs established under
10 this section. The fee charged to any producer responsibility organization may not exceed 10
11 percent of the three-year average of the organization's annual expenditures, excluding pay-
12 ments of the fee established under this section, as described in the organizations' annual
13 reports submitted under section 12 of this 2021 Act. Fees collected under this subsection
14 must be deposited in the Waste Prevention and Reuse Fund established under section 35 of
15 this 2021 Act.

16 **SECTION 33. Life cycle evaluation.** The Environmental Quality Commission shall estab-
17 lish by rule standards for the evaluation and disclosure of the environmental impacts of
18 covered products through the life cycle of the products. Rules adopted under this section
19 must:

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

23 (2) Require large producers to:

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

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

28 (c) Make the evaluation available on the website of the producer responsibility organiza-
29 tion of which the large producer is a member.

30 **SECTION 34. Producer Responsibility Fund.** The Producer Responsibility Fund is estab-
31 lished, separate and distinct from the General Fund. The Producer Responsibility Fund con-
32 sists of moneys deposited into the fund under section 31 of this 2021 Act and moneys
33 transferred or appropriated to the fund by the Legislative Assembly. All moneys in the Pro-
34 ducer Responsibility Fund are continuously appropriated to the Department of Environ-
35 mental Quality and may be used only to pay the costs of administering, implementing and
36 enforcing sections 1 to 43 of this 2021 Act.

37 **SECTION 35. Waste Prevention and Reuse Fund.** The Waste Prevention and Reuse Fund
38 is established, separate and distinct from the General Fund. The Waste Prevention and Re-
39 use Fund consists of moneys deposited into the fund under section 32 of this 2021 Act and
40 moneys transferred or appropriated to the fund by the Legislative Assembly. All moneys in
41 the Waste Prevention and Reuse Fund are continuously appropriated to the Department of
42 Environmental Quality and may be used only for the purposes described in section 32 of this
43 2021 Act.

44 **SECTION 36. Truth in Labeling Task Force.** (1) The Truth in Labeling Task Force is es-
45 tablished.

1 **Quality Commission under subsection (3) of this section, a person may not establish or op-**
2 **erate a commingled recycling processing facility in this state unless the person obtains a**
3 **disposal site permit issued by the Department of Environmental Quality under ORS 459.205.**

4 **(2) A disposal site permit issued to a commingled recycling processing facility must re-**
5 **quire the facility to:**

6 **(a) Sort all materials collected from the public so that materials do not become contam-**
7 **inants in other waste streams;**

8 **(b) Market materials to responsible end markets or to another commingled recycling**
9 **processing facility, provided that the permittee complies with the requirements for a**
10 **commingled recycling reload facility under section 19 of this 2021 Act;**

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

12 **(d) Refrain from creating a public nuisance or health hazard, consistent with rules**
13 **adopted under this section;**

14 **(e) Limit air or water pollution or other adverse impacts on public health or the envi-**
15 **ronment;**

16 **(f) Evaluate and report on inbound material quality and contamination, in accordance**
17 **with forms and procedures established by the department in section 39 of this 2021 Act;**

18 **(g) Accurately report outbound contamination levels; and**

19 **(h) For all materials held by the processor:**

20 **(A)(i) Accurately report the final end market of the materials; or**

21 **(ii) Obtain a certification that the responsible end markets for the materials meet stan-**
22 **dards for environmental and social sustainability established by a program approved by the**
23 **commission under subsection (3) of this section.**

24 **(B) Proprietary information on the final end market of materials may be designated**
25 **confidential by the processor and is not subject to public disclosure under ORS 192.311 to**
26 **192.478, except that the department or producer responsibility organizations may disclose**
27 **summarized information or aggregated data if the information or data do not identify the**
28 **proprietary information of any specific processor.**

29 **(3) The commission shall prescribe by rule the requirements for a permit issued under**
30 **ORS 459.205 and this section. Rules adopted under this subsection shall allow for permitted**
31 **facilities to direct, in response to an emergency failure of critical equipment at their own**
32 **facility, and on a temporary basis, small amounts of unsorted inbound materials to other**
33 **recycling processing facilities for sorting and recycling so long as such facilities meet the**
34 **requirements described in subsection (2)(a), (c) and (g) of this section. Rules adopted under**
35 **this section may include:**

36 **(a) A schedule for implementing the requirements of this section, including:**

37 **(A) The date by which a person must first obtain a permit required under this section;**
38 **and**

39 **(B) Dates for the implementation of modified standards that a person must meet to sat-**
40 **isfy the requirements of this section, and the accompanying standards; and**

41 **(b) The identification of approved programs for certifying the environmental and social**
42 **sustainability of responsible end markets.**

43 **SECTION 38. Certification program. (1) The Department of Environmental Quality shall**
44 **establish a program or approve a program established by a third party to certify commingled**
45 **recycling processing facilities located outside of Oregon. The department may issue certif-**

1 icates under the program or develop a list of approved contractors to issue certificates.

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

4 **SECTION 39. Contamination.** (1) The Department of Environmental Quality shall estab-
5 lish forms and procedures for commingled recycling processing and recycling reload facilities
6 to evaluate and describe levels of inbound contamination.

7 (2) Information described in subsection (1) of this section shall be provided to the de-
8 partment and local governments or local governments' service providers responsible for
9 collecting the materials evaluated.

10
11 (Enforcement)

12
13 **SECTION 40. Enforcement and record keeping.** (1) The Department of Environmental
14 Quality shall have the power to enter upon and inspect, at any reasonable time, any public
15 or private property, premises or place for the purpose of investigating either an actual or
16 suspected violation of sections 1 to 43 of this 2021 Act or rules adopted under sections 1 to
17 43 of this 2021 Act.

18 (2) A producer responsibility organization shall retain all records related to the imple-
19 mentation and administration of a producer responsibility program for not less than five
20 years from the time the record was created and make the records available for inspection
21 by the department upon request.

22 (3) In accordance with the applicable provisions of ORS chapter 183 relating to contested
23 case proceedings, the department may issue an order requiring compliance with the pro-
24 visions of sections 1 to 43 of this 2021 Act.

25 (4) In accordance with the applicable provisions of ORS chapter 183 relating to contested
26 case proceedings, and in accordance with ORS 468.130 and rules adopted pursuant to ORS
27 468.130, the department may issue civil penalties for violations of the provisions of sections
28 1 to 43 of this 2021 Act. All penalties recovered for violations of sections 1 to 43 of this 2021
29 Act shall be paid into the State Treasury and credited to the Waste Prevention and Reuse
30 Fund established under section 35 of this 2021 Act.

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

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

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

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

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

42 (7) Any person with control of materials collected under sections 1 to 43 of this 2021 Act
43 shall retain all records related to the person's responsibilities under sections 1 to 43 of this
44 2021 Act for not less than five years from the time the record was created and make the
45 records available for inspection by the department upon request.

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

5 (9) Proprietary information furnished to the department relating to subsections (7) and
6 (8) of this section may be designated confidential. Information designated confidential is not
7 subject to public disclosure under ORS 192.311 to 192.478, except that the department may
8 disclose summarized information or aggregated data if the information or data do not di-
9 rectly or indirectly identify the proprietary information of a specific person.

10
11 (Miscellaneous)

12
13 **SECTION 41. Truth in composting.** (1) A person that operates or controls a collection
14 program for yard debris or food waste or that operates or controls a compost facility may
15 not promote for acceptance any material that cannot or will not be effectively composted.

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

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

22 **SECTION 42. Antitrust.** The Legislative Assembly declares that the collaboration of pro-
23 ducers through producer responsibility organizations to develop and implement producer re-
24 sponsibility program plans is in the best interests of the public. Therefore, the Legislative
25 Assembly declares its intent that participating in a producer responsibility organization to
26 implement a producer responsibility program plan as required by sections 1 to 43 of this 2021
27 Act shall be exempt from state antitrust laws. The Legislative Assembly further declares its
28 intent to provide immunity for participating in a producer responsibility organization to im-
29 plement a producer responsibility program plan as required by sections 1 to 43 of this 2021
30 Act from federal antitrust laws. This section does not authorize any person to engage in
31 activities or to conspire to engage in activities that constitute per se violations of state or
32 federal antitrust laws that are not authorized under sections 1 to 43 of this 2021 Act.

33 **SECTION 43. Rules.** The Environmental Quality Commission may adopt rules as neces-
34 sary to implement sections 1 to 43 of this 2021 Act.

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

37
38 (State Procurement Assessment)

39
40 **SECTION 44. State procurement assessment.** (1) The Oregon Department of Adminis-
41 trative Services, in consultation with the Department of Environmental Quality, shall study
42 and assess state procurement practices as they relate to recycled products, recycled PETE
43 and recycled materials as those terms are defined in ORS 279A.010. The assessment must
44 include:

45 (a) An evaluation of procurement practices under ORS chapters 279A and 279B related

1 to recycled materials, including efficacy and compliance;

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

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

7 (d) An evaluation of opportunities for strengthening traceability and verification re-
8 quirements associated with recycled products or recycled materials, especially recycled
9 plastic; and

10 (e) Recommendations for legislation.

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

15
16 **AMENDMENTS TO STATUTES**

17
18 **SECTION 45.** ORS 459.005 is amended to read:

19 459.005. As used in ORS 459.005 to 459.437, 459.705 to 459.790 and 459A.005 to 459A.665:

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

23 (2) "Board of county commissioners" or "board" includes a county court.

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

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

31 (5) "Commission" means the Environmental Quality Commission.

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

34 (7) "Department" means the Department of Environmental Quality.

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

41 (b) "Disposal site" does not include:

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

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

45 (C) A site used by the owner or person in control of the premises to dispose of soil, rock, con-

1 crete or other similar nondecomposable material, unless the site is used by the public either directly
2 or through a collection service; or

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

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

6 (10) "Franchise" includes a franchise, certificate, contract or license issued by a local govern-
7 ment unit authorizing a person to provide solid waste management services.

8 (11) "Hazardous waste" has the meaning given that term in ORS 466.005.

9 (12) "Household hazardous waste" means any discarded, useless or unwanted chemical, material,
10 substance or product that is or may be hazardous or toxic to the public or the environment and is
11 commonly used in or around households and is generated by the household. "Household hazardous
12 waste" may include but is not limited to some cleaners, solvents, pesticides and automotive and
13 paint products.

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

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

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

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

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

29 [(17)] (18) "Metropolitan service district" means a district organized under ORS chapter 268 and
30 exercising solid waste authority granted to such district under this chapter and ORS chapters 268
31 and 459A.

32 [(18)] (19) "Person" means the United States, the state or a public or private corporation, local
33 government unit, public agency, individual, partnership, association, firm, trust, estate or any other
34 legal entity.

35 [(19)] (20) "Recyclable material" means any material **identified for recycling collection under**
36 **section 22 of this 2021 Act or any other material** or group of materials that can be collected and
37 sold for recycling at a net cost equal to or less than the cost of collection and disposal of the same
38 material.

39 [(20)] (21) "Recycling" means any process by which solid waste materials are transformed into
40 new products in a manner that the original products may lose their identity.

41 [(21)] (22) "Region" means the states of Idaho, Oregon and Washington and those counties in
42 California and Nevada that share a common border with Oregon.

43 [(22)] (23) "Regional disposal site" means a disposal site that receives, or a proposed disposal
44 site that is designed to receive more than 75,000 tons of solid waste a year from outside the imme-
45 diate service area in which the disposal site is located. As used in this subsection, "immediate

1 service area” means the county boundary of all counties except a county that is within the boundary
2 of the metropolitan service district. For a county within the metropolitan service district, “immedi-
3 ate service area” means the metropolitan service district boundary.

4 [(23)] (24) “Reuse” means the return of a commodity into the economic stream for use in the
5 same kind of application as before without change in its identity.

6 [(24)] (25) “Solid waste” means all useless or discarded putrescible and nonputrescible materials,
7 including but not limited to garbage, rubbish, refuse, ashes, paper and cardboard, sewage sludge,
8 septic tank and cesspool pumpings or other sludge, useless or discarded commercial, industrial,
9 demolition and construction materials, discarded or abandoned vehicles or parts thereof, discarded
10 home and industrial appliances, manure, vegetable or animal solid and semisolid materials, dead
11 animals and infectious waste as defined in ORS 459.386. “Solid waste” does not include:

12 (a) Hazardous waste as defined in ORS 466.005.

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

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

18 [(25)] (26) “Solid waste management” means prevention or reduction of solid waste, management
19 of the storage, collection, transportation, treatment, utilization, processing and final disposal of solid
20 waste, recycling, reuse and material or energy recovery from solid waste and facilities necessary
21 or convenient to such activities.

22 [(26)] (27) “Source separate” means that the person who last uses recyclable material separates
23 the recyclable material from solid waste.

24 [(27)] (28) “Transfer station” means a fixed or mobile facility other than a collection vehicle
25 where solid waste is deposited temporarily after being removed from the site of generation but be-
26 fore being transported to a final disposal location.

27 [(28)] (29) “Waste prevention” means to reduce the amount of solid waste generated or resources
28 used, without increasing toxicity, in the design, manufacture, purchase or use of products or pack-
29 aging. “Waste prevention” does not include reuse, recycling or composting.

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

33 [(30)] (31) “Woody biomass” means material from trees and woody plants, including limbs, tops,
34 needles, leaves and other woody parts, grown in a forest, woodland, farm, rangeland or wildland-
35 urban interface environment that is the by-product of forest management, ecosystem restoration or
36 hazardous fuel reduction treatment.

37 [(31)] (32) “Yard debris” includes grass clippings, leaves, hedge trimmings and similar vegetative
38 waste generated from residential property or landscaping activities, but does not include stumps or
39 similar bulky wood materials.

40 **SECTION 46.** ORS 459.015 is amended to read:

41 459.015. (1) The Legislative Assembly finds and declares that:

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

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

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

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

7 (e) There are limits to Oregon's natural resources and the capacity of the state's environment
8 to absorb the impacts of increasing consumption of resources, increasing waste generation and in-
9 creasing solid waste disposal.

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

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

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

18 (i) **It is necessary, in order to protect the health and promote the well-being of all resi-**
19 **dents in Oregon, to acknowledge and align Oregon's sustainable materials management pol-**
20 **icy with principles of environmental and social justice across the life cycle of materials**
21 **consumed in this state.**

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

30 (2) In the interest of the public health, safety and welfare, [*and in order to conserve energy and*
31 *natural resources,*] **in order to allow all entities in Oregon to produce and use materials**
32 **responsibly, conserve resources and protect the environment and in order to allow all people**
33 **of Oregon to live well,** it is the policy of the State of Oregon to establish a comprehensive state-
34 wide program for [*solid waste*] **materials management** [*which*] **that** will:

35 [*(a) After consideration of technical and economic feasibility, establish priority in methods of*
36 *managing solid waste in Oregon as follows:*]

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

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

42 (c) **If information on the net negative impacts described in paragraph (a) of this sub-**
43 **section is unavailable or highly uncertain, establish priority in methods of managing solid**
44 **waste in Oregon as follows:**

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

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

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

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

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

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

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

19 (F) Sixth, to dispose of solid waste [*that cannot be reused, recycled, composted or from which en-*
20 *ergy cannot be recovered*] by landfilling or other method approved by the Department of Environ-
21 mental Quality.

22 [(b)] (d) Clearly express the Legislative Assembly's previous delegation of authority to cities and
23 counties for collection service franchising and regulation and the extension of that authority under
24 the provisions of this section and ORS 459.125 and 459A.005 to 459A.085.

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

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

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

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

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

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

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

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

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

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

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

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

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

11 **SECTION 47.** ORS 459.995 is amended to read:

12 459.995. (1) Except as provided in subsection (2) of this section, in addition to any other penalty
13 provided by law:

14 (a) Any person who violates ORS 459.205, 459.270, 459.272, 459.386 to 459.405, 459.705 to 459.790,
15 459A.005 to 459A.620, 459A.310 to 459A.335~~, 459A.675 to 459A.685~~ or 646A.080 **or sections 1 to**
16 **43 of this 2021 Act**, or any rule or order of the Environmental Quality Commission pertaining to
17 the disposal, collection, storage or reuse or recycling of solid wastes, as defined by ORS 459.005, or
18 any rule or order pertaining to the disposal, storage or transportation of waste tires, as defined by
19 ORS 459.705, or any rule or order pertaining to the sale of novelty items that contain encapsulated
20 liquid mercury, incurs a civil penalty not to exceed \$25,000 per day for each day of the violation.

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

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

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

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

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

35 (g) Any stewardship organization that violates the provisions of ORS 459A.825 (2)(a), 459A.827,
36 459A.830 to 459A.837 or 459A.842 incurs a civil penalty not to exceed \$1,000 per day for each day
37 of the violation.

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

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

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

45 459A.005. (1) As used in ORS 459.015, 459.250 and 459A.005 to 459A.665, the “opportunity to

1 recycle” means at least that the city, county or metropolitan service district responsible for solid
2 waste management:

3 (a)(A) Provides a place for collecting source separated recyclable material, **including the ma-**
4 **terials on the uniform statewide collection list established under section 22 of this 2021 Act**
5 **designated for collection at a recycling depot**, located either at a disposal site or at another lo-
6 cation more convenient to the population being served and, if a city has a population of 4,000 or
7 more, collection at least once a month of source separated recyclable material, **including the ma-**
8 **terials on the uniform statewide collection list established under section 22 of this 2021 Act**
9 **designated for recycling collection services described in section 2 (27)(a) to (c) of this 2021**
10 **Act**, from collection service customers within the city’s urban growth boundary or, where applica-
11 ble, within the urban growth boundary established by a metropolitan service district; or

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

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

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

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

18 (b) Encourages source separation of recyclable material.

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

21 459A.005. (1) As used in ORS 459.015, 459.250 and 459A.005 to 459A.665, the “opportunity to
22 recycle” means at least that the city, county or metropolitan service district responsible for solid
23 waste management:

24 (a)(A) Provides a place for collecting source separated recyclable material, **including the ma-**
25 **terials on the uniform statewide collection list established under section 22 of this 2021 Act**
26 **designated for collection at a recycling depot**, located either at a disposal site or at another lo-
27 cation more convenient to the population being served and, if a city has a population of 4,000 or
28 more, collection at least once a month of source separated recyclable material, **including the ma-**
29 **terials on the uniform statewide collection list established under section 22 of this 2021 Act**
30 **designated for recycling collection services described in section 2 (27)(a) to (c) of this 2021**
31 **Act**, from collection service customers within the city’s urban growth boundary or, where applica-
32 ble, within the urban growth boundary established by a metropolitan service district; or

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

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

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

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

39 (b) Encourages source separation of recyclable material.

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

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

42 (b) The residential and commercial tenants of landlords or property managers that are customers
43 of a collection service for the benefit of their tenants. **The Director of the Department of Envi-**
44 **ronmental Quality may approve exemptions to the requirement to provide the opportunity**
45 **to recycle to tenants described in this paragraph in cases of extreme compliance barriers**

1 **caused by lack of space, local land use or zoning laws or other insurmountable challenges.**

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

3 **Sec. 3.** The amendments to ORS 459A.005 by section 2, **chapter 534, Oregon Laws 2015**, [of this
4 2015 Act] become operative on July 1, [2022] **2026**.

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

6 459A.007. (1) A person providing the opportunity to recycle shall fulfill the requirements of
7 subsection (3) of this section using the following recycling program elements:

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

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

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

13 (d) A multifamily collection program that includes:

14 (A) Collection of [at least four principal recyclable materials or the number of materials required
15 to be collected under the residential on-route collection program, whichever is less,] **materials desig-**
16 **ned for recycling collection on the uniform statewide collection list established under sec-**
17 **tion 22 of this 2021 Act** from each multifamily dwelling complex that has five or more units; and

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

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

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

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

25 (f) A commercial recycling program that includes:

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

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

34 (C) Other optional elements, including but not limited to waste assessments and recycling re-
35 cognition programs. A city or county is encouraged to involve local business organizations in pub-
36 licly recognizing outstanding recycling efforts by commercial generators of solid waste. The
37 recognition may include awards designed to provide additional incentives to increase recycling ef-
38 forts.

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

41 (g) Expanded depots for recycling of at least all [principal recyclable] materials **designated for**
42 **collection at recycling depots on the uniform statewide collection list established under sec-**
43 **tion 22 of this 2021 Act**, and provisions for promotion or education to maximize the use of the de-
44 pots. The depots must:

45 (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 reduction, reuse and recycling
4 through reduced rates for smaller containers, including at least one rate for a container that is 21
5 gallons or less in size. Based on the average weight of solid waste disposed per container for con-
6 tainers of different sizes, the rate on a per pound disposed basis may not decrease with increasing
7 size of containers, and the rates per container service may not be less with additional containers
8 serviced.

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

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

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

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

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

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

22 (i) Reduce waste during preconstruction planning and in building construction, renovation and
23 demolition phases; and

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

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

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

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

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

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

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

36 (e) A program for the provision of city or wasteshed funding or infrastructure support to pro-
37 mote and sustain reuse, repair, leasing or sharing efforts.

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

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

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

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

3 (b) An alternative program that complies with the rules of the Environmental Quality Commis-
4 sion and that is designed to be as effective in recovering recyclable materials from solid waste as
5 the requirements provided in 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 must implement to com-
9 ply 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 (1)(a), (b) and (c) of this
12 section and at least four additional elements set forth under subsection (1) of this section; or

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

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

17 (c) For cities with a population of at least 4,000 but not more than 10,000 that are more than
18 120 miles from the City of Portland, at least three recycling program elements set forth under sub-
19 section (1) of this section.

20 (d) For cities with a population of more than 10,000 but not more than 50,000 that are located
21 150 miles or less from the City of Portland:

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

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

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

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

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

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

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

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

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

41 (6) Each city that is within a metropolitan service district or with a population of greater than
42 50,000 and each county that is responsible for the area between city limits and the urban growth
43 boundary of a city with a population of greater than 50,000 or the area outside of city limits but
44 within a metropolitan service district urban growth boundary shall implement either:

45 (a) The waste prevention and reuse program element set forth under subsection (2)(a) of this

1 section, and at least four additional elements set forth under subsection (2) of this section; or

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

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

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

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

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

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

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

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

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

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

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

36 **SECTION 52.** ORS 459A.008 is amended to read:

37 459A.008. An expanded education and promotion program to satisfy the requirements of ORS
38 459A.007 must carry out the policy set forth in ORS 459.015, inform generators of solid waste of the
39 manner and benefits of reducing, reusing, recycling and composting material, promote use of recy-
40 cling services and reduce contamination in collected recyclables. The city, county or metropolitan
41 service district responsible for providing an opportunity to recycle shall provide the education and
42 promotion program in one of the following ways:

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

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

6 (2) Implementing all of the following:

7 (a)(A) Provision of recycling notification and education packets to all new residential, commer-
8 cial and institutional collection service customers that include, at a minimum, information about the
9 materials collected, the schedule for collection, the way to prepare materials for collection, why
10 separating material for recycling is necessary and how to reduce contamination of the materials set
11 out for collection.

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

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

15 (ii) Include information on the economic and other benefits of recycling, common barriers to
16 recycling and solutions to the barriers, additional resources for commercial generators of solid
17 waste and other information designed to assist and encourage recycling efforts and reduce contam-
18 ination; and

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

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

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

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

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

30 **SECTION 53.** ORS 459A.025 is amended to read:

31 459A.025. (1) According to the requirements of ORS chapter 183, the Environmental Quality
32 Commission shall adopt rules and guidelines necessary to carry out the provisions of ORS 459.005,
33 459.015, 459.035, 459.250, 459.992 (1) and (2), 459.995 and 459A.005 to 459A.665, including but not
34 limited to:

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

36 (b) Education, promotion and notice requirements, which requirements may be different for dis-
37 posal sites and collection systems;

38 (c) Identification of the watersheds within the state;

39 *[(d) Identification of the principal recyclable material in each watershed;]*

40 *[(e)]* (d) Guidelines for local government units and other persons responsible for implementing
41 the provisions of ORS 459.005, 459.015, 459.035, 459.250, 459.992 (1) and (2), 459.995 and 459A.005 to
42 459A.665; and

43 *[(f)]* (e) Standards for the joint submission of the recycling reports required under ORS 459A.050
44 (1).

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

1 (a) The policy stated in ORS 459.015.

2 (b) Systems and techniques available for recycling, including but not limited to existing recycl-
3 ing programs.

4 (c) Availability of markets for recyclable material.

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

6 (e) Avoided costs of disposal.

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

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

10 **SECTION 54.** ORS 459A.080 is amended to read:

11 459A.080. A person may not:

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

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

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

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

24 **SECTION 55.** ORS 459.035 is amended to read:

25 459.035. Consistent with ORS 459.015 [(2)(c)] **(2)(e)**, the Department of Environmental Quality
26 shall provide to state agencies, local government units and persons providing collection service,
27 advisory technical and planning assistance in development and implementation of effective solid
28 waste management plans and practices, implementation of recycling programs under ORS 459.250,
29 459A.005 to 459A.120 and 459A.600 to 459A.620, and assistance in training of personnel in solid
30 waste management. The department shall report to the Legislative Assembly from time to time on
31 further assistance that will be needed to develop, implement and administer effective solid waste
32 management programs or recycling programs. The department shall assist in surveys to locate po-
33 tential disposal sites. The department may request the assistance of other state agencies.

34 **SECTION 56.** ORS 459.772 is amended to read:

35 459.772. Notwithstanding any other provision of ORS 459.015, for purposes of encouraging the
36 use of waste tires under ORS 459.705 to 459.790, the use of processed, source-separated waste tires
37 having a positive market value as a new product to recover energy shall be considered recycling
38 under ORS 459.015 [(2)(a)(C)] **(2)(c)(C)**.

39 **SECTION 57.** ORS 90.318 is amended to read:

40 90.318. (1) In a city or the county within the urban growth boundary of a city that has imple-
41 mented multifamily recycling service, a landlord who has five or more residential dwelling units on
42 a single premises or five or more manufactured dwellings in a single facility shall at all times during
43 tenancy provide to all tenants:

44 (a) A separate location for containers or depots for *[at least four principal recyclable materials*
45 *or for the number of materials required to be collected under the residential on-route collection pro-*

1 *gram, whichever is less,] materials designated for recycling collection on the uniform statewide*
2 **collection list established under section 22 of this 2021 Act**, adequate to hold the reasonably
3 anticipated volume of each material;

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

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

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

10
11 **REPEALS**

12
13 **SECTION 58.** (1) ORS 459A.675, 459A.680 and 459A.685 are repealed.

14 (2) Section 26 of this 2021 Act is repealed on January 2, 2027.

15 (3) Section 36 of this 2021 Act is repealed on December 31, 2022.

16
17 **TEMPORARY PROVISIONS**

18
19 **SECTION 59.** (1) A producer responsibility organization shall first submit a producer re-
20 sponsibility program plan to the Department of Environmental Quality under section 6 of
21 this 2021 Act no later than March 31, 2024.

22 (2) A producer responsibility organization shall first implement an approved producer
23 responsibility program plan no later than July 1, 2025.

24 **SECTION 60.** The provisions of section 4 of this 2021 Act requiring a producer to be a
25 member of a producer responsibility organization apply to producers that sell, offer for sale
26 or distribute in or into this state covered products on or after July 1, 2025.

27 **SECTION 61.** (1) The Department of Environmental Quality shall first report the findings
28 of the study conducted under section 29 of this 2021 Act to the Environmental Quality
29 Commission no later than May 15, 2024.

30 (2) The department shall complete the first study required under section 30 of this 2021
31 Act no later than October 31, 2023.

32 (3) The department shall first submit the report required under section 16 of this 2021
33 Act no later than December 31, 2026.

34 (4) The Oregon Department of Administrative Services shall first complete the assess-
35 ment required by section 44 of this 2021 Act no later than May 15, 2024.

36 **SECTION 62.** Section 21 of this 2021 Act becomes operative on January 1, 2026.

37 **SECTION 63.** (1) Section 19 of this 2021 Act becomes operative on July 1, 2025.

38 (2) The Department of Environmental Quality and Environmental Quality Commission
39 may take any action before the operative date specified in subsection (1) of this section that
40 is necessary for the department or the commission to exercise, on and after the operative
41 date specified in subsection (1) of this section, all of the duties, functions and powers con-
42 ferred on the department and the commission by section 19 of this 2021 Act.

43 (3) The amendments to section 19 of this 2021 Act by section 19a of this 2021 Act become
44 operative on January 1, 2027.

45 (4) The Department of Environmental Quality and Environmental Quality Commission

1 may take any action before the operative date specified in subsection (3) of this section that
2 is necessary for the department or the commission to exercise, on and after the operative
3 date specified in subsection (3) of this section, all of the duties, functions and powers con-
4 ferred on the department and the commission by the amendments to section 19 of this 2021
5 Act by section 19a of this 2021 Act.

6 **SECTION 64.** Notwithstanding the term of office specified in section 17 of this 2021 Act,
7 of the members first appointed to the Oregon Recycling System Advisory Council:

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

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

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

11
12 **UNIT AND SECTION CAPTIONS**

13
14 **SECTION 65.** The unit and section captions used in this 2021 Act are provided only for
15 the convenience of the reader and do not become part of the statutory law of this state or
16 express any legislative intent in the enactment of this 2021 Act.