
HOUSE BILL 2003

State of Washington

67th Legislature

2022 Regular Session

By Representatives Donaghy, Berry, Duerr, Fitzgibbon, J. Johnson, Leavitt, Peterson, Ramel, Ryu, Simmons, Macri, Bateman, Ormsby, Davis, Riccelli, Lekanoff, and Pollet

Read first time 01/17/22. Referred to Committee on Environment & Energy.

1 AN ACT Relating to renewing Washington's recycling system and
2 reducing waste; amending RCW 70A.245.010, 70A.245.020, 70A.245.030,
3 70A.205.005, 70A.205.010, 70A.205.115, 70A.205.045, 70A.205.070,
4 81.77.030, 81.77.040, 81.77.160, and 81.77.185; reenacting and
5 amending RCW 43.21B.110 and 43.21B.300; adding a new chapter to Title
6 70A RCW; and prescribing penalties.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 NEW SECTION. **Sec. 1.** FINDINGS—INTENT. (1) The legislature finds
9 that Washington's statewide waste recovery rate, which seeks to
10 preserve public health, safety, and welfare, and conserve energy and
11 natural resources, has been on a declining trend since 2011 and that
12 Washington is not on track to meet the statewide goal of 50 percent
13 waste recovery established in 1989.

14 (2) The legislature finds that packaging designs and materials
15 have changed and the way Washington's residents use, consume, and
16 manage materials when no longer wanted has also changed significantly
17 in recent years. These shifts have created unintended consequences,
18 such as the deterioration of natural systems regionally and
19 worldwide, as well as increased levels of pollution and greenhouse
20 gas emissions that contribute to global climate change, and

1 reductions in human well-being, especially for the most vulnerable
2 populations.

3 (3) The legislature finds that convenient and environmentally
4 sound extended producer responsibility programs that include
5 collecting, transporting, reusing, and recycling, or the proper end-
6 of-life management of unwanted products help protect Washington's
7 environment and the health of state residents. Unwanted products
8 should be managed in a manner where a priority is placed on
9 prevention, waste reduction, source reduction, reuse, and recycling
10 over energy recovery and landfill disposal.

11 (4) The legislature also finds that the department of ecology was
12 directed, through an independent consultant, to study how plastic
13 packaging is managed in the state, assess various policy options, and
14 that the study recommendations included establishing an extended
15 producer responsibility policy for all consumer packaging and paper
16 products with a framework that makes producers responsible for
17 achieving specific management and environmental outcomes for the
18 packaging and paper products they supply into Washington state.

19 (5) In addition, the legislature finds extended producer
20 responsibility policies designed to cover all material types
21 collected through the state's existing recycling system offers the
22 potential for greater economies of scale and operational efficiencies
23 than could be achieved under a policy applied only to a subset of
24 materials collected through that system.

25 (6) It is the intent of the legislature that extended producer
26 responsibility programs, including targets, are implemented by and
27 for producers of consumer packaging and paper products in a manner
28 that involves producers from design concept to end-of-life
29 management, and incentivizes innovation and research to minimize
30 environmental impacts of the packaging and paper products.

31 (7) It is also intended that these programs be responsibly
32 managed, so that covered products are handled from the point of
33 collection through the final destination in a way that benefits the
34 environment and minimizes risks to public health and worker health
35 and safety.

36 (8) Finally, it is further the intent of the legislature that,
37 through design and innovation, industry shall reduce the use of
38 consumer packaging and paper products, increase the use of
39 postconsumer recycled content and make all packaging reusable,
40 recyclable, or compostable. The legislature intends that the policy

1 of the state is to ensure that by 2040 an overall recycling and reuse
2 rate of 90 percent is achieved for consumer packaging and paper
3 products.

4 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this
5 section apply throughout this chapter unless the context clearly
6 requires otherwise.

7 (1) "Aluminum" means a covered product made of the chemical
8 element aluminum that forms a silvery white to dull gray, nonmagnetic
9 metal.

10 (2) "Brand" means a name, symbol, word, or mark that identifies a
11 product and attributes the product and its components, including
12 packaging, to the brand holder of the product as the producer.

13 (3) "Brand holder" means a person who owns or licenses a brand or
14 who otherwise has rights to market a product under the brand, whether
15 or not the brand trademark is registered.

16 (4) "Compostable" means a covered product that is capable of
17 undergoing aerobic biological decomposition in a system meeting the
18 requirements of chapter 70A.205 RCW, that results in the material
19 being broken down primarily into carbon dioxide, water, inorganic
20 compounds, and biomass.

21 (5) "Consumer" means a person who purchases or receives a covered
22 product and is the intended end user or recipient of the covered
23 product for personal use.

24 (6) "Contamination" means:

25 (a) The presence of materials in a given collected material
26 stream that are not on the list of materials designated for
27 collection in that material stream; or

28 (b) The presence of materials in a given recycled material
29 delivered as a feedstock or commodity that are not specified or
30 accepted as a component of the feedstock or commodity.

31 (7) "Covered product" means packaging and paper products sold or
32 supplied to consumers.

33 (8) "Department" means the department of ecology.

34 (9) "Designated for collection" means the covered products that
35 are included in the material categories listed in a producer
36 responsibility organization's plan to be collected for reuse or
37 recycling.

1 (10) "Flexible plastic" means any covered product made of
2 polymers that is flexible in form, including films and multilayer
3 laminates.

4 (11) "Glass" means a covered product made of soda lime glass.

5 (12) "Government agency" means any:

6 (a) County, city, town, or other local government agency,
7 including any municipal corporation, quasi-municipal corporation, or
8 special purpose district, or any office, department, division,
9 bureau, board, commission, or agency thereof, or other local public
10 agency;

11 (b) State office, department, division, bureau, board,
12 commission, or other state agency;

13 (c) Federally recognized Indian tribe whose traditional lands and
14 territories include parts of Washington; or

15 (d) Federal office, department, division, bureau, board,
16 commission, or other federal agency.

17 (13) "Material category" means a group of covered products
18 defined by the producer responsibility organization that have similar
19 properties such as chemical composition, shape, or other
20 characteristics including, but not limited to:

21 (a) Rigid plastic;

22 (b) Flexible plastic;

23 (c) Paper;

24 (d) Aluminum;

25 (e) Steel; and

26 (f) Glass.

27 (14) (a) "Packaging" means a material, substance, or object that
28 is:

29 (i) Used to protect, contain, transport, or serve a product;

30 (ii) Sold or supplied to consumers expressly for the purpose of
31 protecting, containing, transporting, or serving products;

32 (iii) Attached to a product or its container for the purpose of
33 marketing or communicating information about the product;

34 (iv) Supplied at the point of sale to facilitate the delivery of
35 the product; or

36 (v) Supplied to or purchased by consumers expressly for the
37 purpose of facilitating food or beverage consumption that is
38 ordinarily disposed of after a single use or short-term use, whether
39 or not it could be reused.

1 (b) "Packaging" does not include material intended to be used for
2 the long-term storage or protection of a durable product and that is
3 intended to transport, protect, or store the product on an ongoing
4 basis.

5 (15) "Paper" means a covered product made of paper fiber,
6 regardless of its cellulosic fiber source, which may include, but is
7 not limited to: Wood, wheat, rice, cotton, bananas, eucalyptus,
8 bamboo, hemp, and sugar cane or bagasse.

9 (16) "Paper product" means paper sold and supplied including, but
10 not limited to, flyers, brochures, booklets, catalogs, newspapers,
11 magazines, copy paper, printing paper, and all other paper materials
12 except for: (a) Bound books; and (b) paper products that, by their
13 use, could become unsafe or unsanitary to handle.

14 (17) "Plan" means description of the approach and activities
15 developed by a producer responsibility organization to fulfill the
16 requirements and to carry out the responsibilities of producers under
17 this chapter.

18 (18) "Postconsumer recycled content" means the content of a
19 covered product made of recycled materials derived specifically from
20 recycled material generated by households or by commercial,
21 industrial, and institutional facilities in their role as end users
22 of a product that can no longer be used for its intended purpose.
23 "Postconsumer recycled content" includes returns of material from the
24 distribution chain.

25 (19)(a) "Producer" means the following person responsible for
26 compliance with requirements under this chapter for a covered product
27 sold, offered for sale, or distributed in or into this state:

28 (i) If the covered product is sold under the manufacturer's own
29 brand or lacks identification of a brand, the producer is the person
30 who manufactures the covered product;

31 (ii) If the covered product is manufactured by a person other
32 than the brand holder, the producer is the person who is the licensee
33 of a brand or trademark under which a covered product is sold,
34 offered for sale, or distributed in or into this state, whether or
35 not the trademark is registered in this state, unless the
36 manufacturer or brand holder of the covered product has agreed to
37 accept responsibility under this chapter; or

38 (iii) If there is no person described in (a)(i) and (ii) of this
39 subsection over whom the state can constitutionally exercise

1 jurisdiction, the producer is the person who imports or distributes
2 the covered product in or into this state.

3 (b) "Producer" does not include:

4 (i) Government agencies, municipalities, or other political
5 subdivisions of the state;

6 (ii) Registered 501(c)(3) charitable organizations and 501(c)(4)
7 social welfare organizations; or

8 (iii) De minimis producers that annually sell, offer for sale,
9 distribute, or import in or into the country for sale in Washington:

10 (A) Less than one ton of a single category of covered products
11 each year; or

12 (B) A single category of a covered product that in aggregate
13 generates less than \$1,000,000 each year in revenue.

14 (20) "Producer responsibility organization" means:

15 (a) A nonprofit organization that qualifies for a tax exemption
16 under 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code
17 and is designated by a producer or group of producers to develop and
18 carry out the activities required of producers by this chapter;

19 (b) Until January 15, 2025, an organization that has applied for
20 a tax exemption under 26 U.S.C. Sec. 501(c)(3) of the federal
21 internal revenue code and is designated by a producer or group of
22 producers to develop and carry out the activities required of
23 producers by this chapter; or

24 (c) An organization as defined by the department.

25 (21) "Program" means the activities conducted to implement an
26 approved producer responsibility organization plan.

27 (22)(a) "Public place" is an indoor or outdoor location open to
28 and generally used by the public and to which the public is permitted
29 to have unrestricted access including, but not limited to, streets,
30 sidewalks, plazas, town squares, public parks, beaches, forests, or
31 other public land open for recreation or other uses, and
32 transportation facilities such as bus and train stations, airports,
33 and ferry terminals.

34 (b) "Public place" does not include industrial, commercial, or
35 privately owned property.

36 (23) "Recyclable" means a covered product that is regularly
37 collected, separated, and reprocessed into a recycled material, and
38 that does not contain harmful chemical, physical, biological, or
39 radiological substances that will pose a threat to human health or
40 the environment for its intended or likely manner of use.

1 (24) (a) "Recycled material" means material derived from covered
2 products that is reprocessed into products or delivered as feedstocks
3 or commodities for use in the production of new products whether for
4 the original or another purpose.

5 (b) "Recycled material" does not include energy recovery and the
6 reprocessing of materials that are to be used as fuels or landfill
7 cover.

8 (25) "Responsible management" means the handling, tracking, and
9 disposition of covered products from the point of collection through
10 the final destination of the collected material in a way that
11 benefits the environment and minimizes risks to public health and
12 worker health and safety.

13 (26) "Reusable" means a covered product that is sufficiently
14 durable for multiple rotations of its original or similar purpose or
15 function in a system of reuse, and that does not contain harmful
16 chemical, physical, biological, or radiological substances that will
17 pose a threat to human health or the environment for its intended or
18 likely manner of use.

19 (27) "Reused material" means material that is collected after use
20 and reused for its original or similar purpose or function.

21 (28) "Rigid plastic" means any covered product made of polymers
22 that is rigid or semirigid in form, including foams.

23 (29) "Socially just management" means practices that:

24 (a) Provide equitable access to and benefits from services,
25 regardless of race, income, socioeconomic status, health, and other
26 population vulnerability or sensitivity characteristics;

27 (b) Prevent or reduce environmental harms or risks; and

28 (c) Prevent or mitigate impacts to overburdened communities or
29 vulnerable populations as defined in RCW 70A.02.010.

30 (30) "Steel" means any covered product made of a ferrous metal
31 substance.

32 (31) "Toxic substance" includes chemicals or classes of chemicals
33 restricted in:

34 (a) Children's products under chapter 70A.430 RCW and high
35 priority chemicals of high concern for children in chapter 173-334
36 WAC;

37 (b) Persistent bioaccumulative toxins listed in chapter 173-333
38 WAC; or

39 (c) Consumer products under chapter 70A.222, 70A.230, 70A.335,
40 70A.340, 70A.350, 70A.400, or 70A.405 RCW.

1 NEW SECTION. **Sec. 3.** PRODUCER RESPONSIBILITY ORGANIZATION

2 DUTIES. (1) Beginning January 15, 2023, each producer that offers for
3 sale, sells, or distributes in or into Washington covered products
4 must join a producer responsibility organization that is registered
5 with the department. Producers that have not joined a producer
6 responsibility organization may not sell or supply covered products
7 in or into Washington.

8 (2) A producer responsibility organization that meets the
9 definition under section 2(20) (a) or (b) of this act may not include
10 on its board of directors, or otherwise be governed by,
11 representatives or affiliates of any public or private entities that
12 submit bids to perform work for the producer responsibility
13 organization or that contract with the producer responsibility
14 organization.

15 (3) By January 15, 2023, and each January 15th thereafter,
16 producer responsibility organizations must register with the
17 department and submit with their registration the following:

18 (a)(i) A list of all their member producers and their brands of
19 covered products, and members of the board of directors;

20 (ii) If there are changes to the list of member producers and
21 brands or members of the board of directors by the end of a given
22 quarter, a producer responsibility organization must submit an
23 updated list to the department within 30 days of the end of that
24 quarter;

25 (b) Until a producer responsibility organization begins to submit
26 annual reports, as specified under section 17 of this act, the
27 following data for the prior calendar year: The weight, by material
28 category, of covered products supplied into the state to consumers,
29 accompanied by a description of how the producer responsibility
30 organization has distinguished and apportioned the quantities of
31 packaging and paper products sold or supplied to consumers, which are
32 considered covered products under this chapter, from quantities of
33 packaging and paper products sold or supplied for other uses that are
34 not considered covered products under this chapter. A producer
35 responsibility organization may rely on member reporting for this
36 description;

37 (c) A producer responsibility organization may submit national
38 data allocated on a per capita basis for Washington to approximate
39 the information required in this subsection if state-level data is
40 not available or feasible to generate.

1 (4) By June 30, 2023, and every June 30th thereafter, every
2 registered producer responsibility organization must submit an annual
3 payment for the following fiscal year, as determined by the
4 department in section 4 of this act, to fund the:

5 (a) Costs to implement, administer, and enforce this chapter,
6 including rule making;

7 (b) Statewide needs assessment established in section 5 of this
8 act; and

9 (c) Support and facilitation of the renew advisory council
10 created in section 19 of this act.

11 (5) Beginning July 1, 2025, or within six months of the first
12 adoption of rules relating to this chapter, whichever is later, every
13 registered producer responsibility organization must submit a plan to
14 the department for approval consistent with the requirements of this
15 chapter.

16 (a) A producer responsibility organization registered with the
17 department as of January 15, 2025, must:

18 (i) Implement its plan approved by the department by July 1,
19 2026, or within six months of plan approval, whichever is later; and

20 (ii) Submit an annual report for the prior calendar year to the
21 department consistent with section 17 of this act by July 1, 2027,
22 and each July 1st thereafter.

23 (b) A producer responsibility organization registering with the
24 department after January 15, 2025, must:

25 (i) Submit the list of producers, brands, board members, data,
26 and department payment as required in subsections (3) and (4) of this
27 section;

28 (ii) Submit a plan, informed by a stakeholder consultation
29 process, within one year of registration;

30 (iii) Implement its plan approved by the department within six
31 months of approval; and

32 (iv) Submit an annual report for the prior calendar year to the
33 department consistent with section 17 of this act by July 1st,
34 beginning the first year after plan implementation.

35 (6) A producer responsibility organization that submits
36 information or records to the department under this chapter may
37 request that the information or records be made available only for
38 the confidential use of the department, the director, or the
39 appropriate division of the department. The director of the
40 department must give consideration to the request and if this action

1 is not detrimental to the public interest and is otherwise in
2 accordance with the policies and purposes of chapter 43.21A RCW, the
3 director must grant the request for the information to remain
4 confidential as authorized in RCW 43.21A.160.

5 (7) Any funds directly collected by the producer responsibility
6 organization for the purposes of this chapter may not be used for
7 costs associated with litigation against the state.

8 NEW SECTION. **Sec. 4.** DEPARTMENT'S DUTIES. (1) The department
9 must implement, administer, and enforce this chapter.

10 (2)(a) By April 1, 2023, and every April 1st thereafter, the
11 department must:

12 (i) Identify the annual costs to implement, administer, and
13 enforce this chapter, including rule making, in the next fiscal year;

14 (ii) Determine a total annual fee payment to be paid by each
15 producer responsibility organization that is adequate to cover, but
16 not exceed, the costs identified in (a)(i) of this subsection and the
17 costs of the:

18 (A) Statewide needs assessment established in section 5 of this
19 act; and

20 (B) Support and facilitation of the renew advisory council
21 created in section 19 of this act;

22 (iii) Until rules are adopted under (a)(iv) of this subsection,
23 issue a general order to all registered producer responsibility
24 organizations. The department must equitably determine fee amounts
25 for producer responsibility organizations;

26 (iv) By 2025, adopt rules to equitably determine annual fee
27 payments by producer responsibility organizations. Once these rules
28 are adopted, the general order issued under (a)(iii) of this
29 subsection is no longer effective; and

30 (v) Send notice to producer responsibility organizations of fee
31 amounts due consistent with either the general order issued under
32 (a)(iii) of this subsection or rules adopted under (a)(iv) of this
33 subsection.

34 (b) The department must:

35 (i) Apply any remaining annual payment funds from the current
36 year to the annual payment for the coming fiscal year, if the
37 collected annual payment exceeds the costs identified under (a)(ii)
38 of this subsection for a given year; and

1 (ii) Increase annual payments for the coming fiscal year to cover
2 the costs identified under (a)(ii) of this subsection, if the
3 collected annual payment was less than the amount required to cover
4 those costs for a given year.

5 (3) (a) The department must review new, updated, and revised plans
6 submitted by producer responsibility organizations as required in
7 section 18 of this act. The department must:

8 (i) Make new, updated, and revised plans available for public
9 review and comment for at least 30 days;

10 (ii) Review new, updated, and revised producer responsibility
11 organization plans within 120 days of receipt of a complete plan;

12 (iii) Make a determination as to whether or not to approve a
13 plan, plan update, or plan revision and notify the producer
14 responsibility organization of the:

15 (A) Determination of approval if a plan provides for a program
16 that meets the requirements of this chapter, taking into
17 consideration comments received under (a)(i) of this subsection; or

18 (B) Reasons for not approving a plan. The producer responsibility
19 organization must submit a new or revised plan within 60 days after
20 receipt of the letter of disapproval.

21 (b) The approval of a plan by the department does not relieve
22 producers participating in the plan from responsibility for
23 fulfilling the requirements of this chapter.

24 (4) The department must review annual reports submitted by
25 producer responsibility organizations as required in section 17 of
26 this act. The department must:

27 (a) Make annual reports available for public review and comment
28 for at least 30 days;

29 (b) Review within 120 days of receipt of a complete annual
30 report;

31 (c) Make a determination as to whether or not an annual report
32 meets the requirements of section 17 of this act and notify the
33 producer responsibility organization of the:

34 (i) Determination of approval of the annual report; or

35 (ii) Reasons for not approving the annual report. The producer
36 responsibility organization must submit a revised annual report
37 within 60 days after receipt of the letter of disapproval;

38 (d) Notify a producer responsibility organization if the annual
39 report demonstrates that the program and activities to implement the
40 plan fail to achieve the reuse and recycling performance requirements

1 established in section 9 of this act or otherwise fail to achieve
2 significant requirements under this chapter.

3 (5) Beginning January 1, 2023, the department may develop
4 criteria to determine whether the covered products are reusable,
5 recyclable, or compostable. When developing the criteria, the
6 department must, at minimum, consider whether covered product
7 materials: Are or may be collected, separated, and processed in
8 sufficient quantity and quality into a marketable feedstock that can
9 be used in the production of new products; contain toxic substances;
10 or are designed in a way that is problematic for reuse, recycling, or
11 composting.

12 (6) The department may adopt rules as necessary to implement,
13 administer, and enforce this chapter including, but not limited to:

14 (a) Establishing the requirements an organization other than a
15 nonprofit organization that qualifies for a tax exemption under 26
16 U.S.C. Sec. 501(c)(3) of the federal internal revenue code must meet
17 to submit a plan and implement a program as a producer responsibility
18 organization;

19 (b) Establishing an equitable formula for determining each
20 producer responsibility organization's share of the annual payment
21 necessary to cover the costs identified under subsection (2)(a)(ii)
22 of this section;

23 (c) Establishing additional plan content in addition to the
24 requirements established under section 7 of this act, as necessary to
25 fulfill the intent of this chapter;

26 (d) Establishing elements to be included as annual reporting
27 requirements, in section 17 of this act, necessary to determine the
28 program's compliance with the requirements of this chapter including,
29 but not limited to, any reused or reusable covered products
30 determined to be necessary to be reported by number of units;

31 (e) Establishing third-party audit and verification requirements;
32 or

33 (f) Establishing processes for new, updated, and revised plan
34 approvals as required in section 18 of this act.

35 (7)(a) Beginning January 1, 2028, and no more frequently than
36 every five years, the department may by rule:

37 (i) Require producer responsibility organizations to ensure
38 convenient collection services are available for recycling of covered
39 products designated for collection from additional locations or
40 entities determined to be significant sources of covered product

1 waste including, but not limited to, public places and official
2 gatherings;

3 (ii) Establish reuse and recycling performance requirements for
4 years not specified in section 9(2) of this act;

5 (iii) Add reuse and recycling performance requirements for
6 material categories not specified in section 9(2) of this act; and

7 (iv) Adjust the reuse and recycling performance requirements
8 established in section 9(2) of this act. In making a determination to
9 adjust the reuse and recycling performance requirements, the
10 department may consider the following:

11 (A) Changes in market conditions, including supply and demand for
12 recycled materials, collection rates, and availability;

13 (B) The capacity of sorting or processing infrastructure; and

14 (C) The carbon footprint and other social justice and
15 environmental impacts of the production and transportation of the
16 recycled material.

17 (b) If the department determines that a minimum reuse and
18 recycling performance requirement should be adjusted, the adjusted
19 requirement must be in effect until a new determination is made or
20 upon the expiration of the minimum reuse and recycling performance
21 requirement's effective period, whichever occurs first. The
22 department may not adjust the overall minimum reuse and recycling
23 performance requirements for all covered products below the
24 requirements established under section 9(2) of this act for the years
25 specified.

26 (c) The department may by rule add or amend material categories
27 in section 9(2) of this act to be included in the reuse and recycling
28 rate calculations as required in section 9(3)(g) of this act.

29 (d) A producer or producer responsibility organization may appeal
30 adjustments to the minimum reuse and recycling performance
31 requirement to the pollution control hearings board within 30 days of
32 the department's determination.

33 (8) Beginning July 1, 2027, the department may determine that a
34 producer responsibility organization that achieves the reuse and
35 recycling rate requirements established for each material category of
36 covered products supplied into the state as provided in section
37 9(2)(c) of this act and achieves the minimum reuse rates as
38 established in section 9(2)(a) and (b) of this act is considered to
39 achieve the overall reuse and recycling performance requirements for
40 all covered products.

1 (9) The department must maintain a public website that:

2 (a) Lists each registered producer responsibility organization
3 along with its member producers and their covered products that are
4 included under the producer responsibility organization's plan; and

5 (b) Makes available each plan and annual report received by the
6 department under this chapter.

7 (10) The department must conduct the statewide needs assessment
8 established under section 5 of this act.

9 (11)(a) The department must establish the renew advisory council
10 under section 19 of this act.

11 (b) The department may select an impartial, third-party
12 facilitator to convene and provide administrative support to the
13 renew advisory council.

14 (c) The department must solicit comments and recommendations from
15 the renew advisory council on program implementation activities.

16 (d) The department must respond to the council's written comments
17 and recommendations within 60 days of receipt.

18 (12)(a) The department may administratively impose a civil
19 penalty of up to \$1,000 per violation per day on any person who
20 violates this chapter and up to \$10,000 per violation per day for the
21 second and each subsequent violation.

22 (b) Any person who incurs a penalty under this section may appeal
23 the penalty to the pollution control hearings board established in
24 chapter 43.21B RCW.

25 (c) Penalties levied under this subsection must be deposited in
26 the responsible packaging management account created in section 26 of
27 this act.

28 NEW SECTION. **Sec. 5.** STATEWIDE NEEDS ASSESSMENT. (1) The

29 department must conduct a statewide needs assessment, to be completed
30 within two years of the effective date of this section, subject to
31 the following requirements:

32 (a) The final scope of the statewide needs assessment must be
33 determined based on comments and recommendations from the renew
34 advisory council established in section 19 of this act, the utilities
35 and transportation commission, and any producer responsibility
36 organization registered by January 15, 2023; and

37 (b) The utilities and transportation commission, renew advisory
38 council, and registered producer responsibility organizations must

1 have the opportunity to review and comment on a draft statewide needs
2 assessment prior to its completion.

3 (2) The statewide needs assessment must be:

4 (a) Carried out by a third-party consultant selected by the
5 department; and

6 (b) Funded through payments collected from producer
7 responsibility organizations.

8 (3) The statewide needs assessment must:

9 (a) Evaluate the capacity, costs, gaps, and needs for the
10 following factors:

11 (i) Availability of recycling services for covered products
12 relative to the convenience standards specified in section 11 of this
13 act;

14 (ii) Education and outreach activities relative to the standards
15 specified in section 16 of this act;

16 (iii) Availability of collection, transport, and processing
17 capacity and infrastructure relative to the management standards
18 specified in section 8 of this act and the recycling and reuse rate
19 requirements specified in section 9 of this act; and

20 (iv) Necessary capital investments to existing reuse and
21 recycling infrastructure;

22 (b) Compile information related to costs for recycling services
23 and other information relevant to the funding requirements for
24 producer responsibility organizations in accordance with section 10
25 of this act;

26 (c) Identify cost factors and other variables to be considered in
27 the development of an objective method for establishing reimbursement
28 rates to government agencies that reflects system costs, with
29 consideration of all costs and revenues received for recycled
30 materials, as described in section 10 of this act, including:

31 (i) Parameters for reimbursement based on documented costs and
32 revenues; and

33 (ii) The formula to be used for reimbursement if documented costs
34 and revenues are not provided by the government agency;

35 (d) Identify key terms and conditions and other issues to be
36 considered in the development of a service agreement for services
37 provided by government agencies in accordance with sections 10 and 12
38 of this act;

1 (e) Compile relevant information to be considered in the
2 development of criteria to determine whether a covered product is
3 recyclable, reusable, or compostable;

4 (f) Evaluate how the state's recycling system can be managed in a
5 socially just manner for the purpose of informing how a producer
6 responsibility organization implementing a plan can achieve this
7 objective as it relates to activities required under this chapter.
8 The assessment should:

9 (i) Include meaningful consultation with overburdened communities
10 and vulnerable populations;

11 (ii) Determine conditions and make recommendations, including, at
12 minimum:

13 (A) An evaluation of recycling processing facility worker
14 conditions, wages, and benefits;

15 (B) The availability of opportunities in the recycling system for
16 women and minority individuals;

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

19 (D) Identification of activities that disproportionately impact
20 any community and in particular overburdened communities and
21 vulnerable populations as defined in RCW 70A.02.010;

22 (E) The sufficiency of recycling education and outreach programs
23 relative to desired socially just management outcomes; and

24 (F) Recommendations for improving socially just management
25 practices and outcomes in the state's recycling system, including
26 considerations for how a producer responsibility organization
27 implementing a plan can achieve this objective as it relates to
28 activities required under this chapter;

29 (g) Evaluate the extent to which covered products contribute to
30 litter and marine debris for the purpose of informing how a producer
31 responsibility organization implementing a plan can support litter
32 and marine debris prevention as it relates to activities required
33 under this chapter. The assessment should draw on available data,
34 assess gaps, and identify strategies for improving prevention and
35 cleanup of litter and marine debris from covered products.

36 NEW SECTION. **Sec. 6.** PLAN PARTICIPATION OBLIGATION—STAKEHOLDER
37 CONSULTATION FOR PLAN. (1) Each producer of covered products must
38 participate in, implement, and fund a producer responsibility
39 organization plan approved by the department.

1 (2) A producer responsibility organization must develop and
2 maintain a public website with enhanced language access informing the
3 public of plan implementation details, including collection services
4 and locations for each type of covered product, and a current list of
5 all member producers and brands of covered products participating in
6 the plan.

7 (3) Prior to submitting a new, updated, or revised plan to the
8 department, a producer responsibility organization must conduct a
9 consultation process to solicit and respond to input and
10 recommendations from the renew advisory council established in
11 section 19 of this act, the utilities and transportation commission,
12 and other stakeholders. The consultation process required in advance
13 of the submission of a plan to the department is in addition to the
14 department-led public comment process specified in section 4(3) of
15 this act. The consultation process must include:

16 (a) Consideration of all elements of the system including
17 collection, sorting, processing, reuse, use of recycled materials,
18 and education;

19 (b) Development of the objective method for establishing
20 reimbursement rates, including:

21 (i) Parameters for reimbursement based on documented costs and
22 revenues;

23 (ii) The formula to be used for reimbursement if documented costs
24 and revenues are not provided by the government agency; and

25 (iii) Terms and conditions for reimbursement to government
26 agencies in the service agreements;

27 (c) Opportunities for all stakeholders and members of the public
28 to provide comment on the plan prior to its submission to the
29 department;

30 (d) Presentations in various formats and languages as necessary
31 for soliciting meaningful input of the plan and receiving comments
32 including workshops, surveys, webinars, and one-on-one meetings; and

33 (e) Documentation of all comments received from the renew
34 advisory council and other stakeholders, and responsive answers
35 provided by the producer responsibility organization for purposes of
36 a stakeholder consultation report to be included with the submission
37 of a plan to the department. The stakeholder consultation report must
38 also describe each forum in which comments or input was received and
39 how it was addressed in the plan.

1 NEW SECTION. **Sec. 7.** PLAN CONTENTS—OVERVIEW. (1) A producer
2 responsibility organization must submit a plan to the department
3 describing the approach and activities to fulfill the requirements of
4 this chapter.

5 (2) All plans and plan updates must contain the following
6 information:

7 (a) Identification of the governing board members of the producer
8 responsibility organization;

9 (b) A list and explanation of the covered products supplied or
10 sold in or into Washington by each member producer and their brands
11 of covered products participating in the plan;

12 (c) The collection and structure of the fees owed by producers to
13 be used to implement the plan, including a description of the
14 ecomodulation of fees consistent with section 10 of this act;

15 (d) How the producer responsibility organization will encourage
16 and incentivize waste prevention and reduction;

17 (e) How the producer responsibility organization will use and
18 interact with recycling programs and infrastructure that predate the
19 implementation of the plan;

20 (f) How the producer responsibility organization will invest in
21 reuse and recycling infrastructure and market development in
22 Washington state as described in section 15 of this act;

23 (g) How the program will maximize the efficiency of the system of
24 collecting and managing covered products through reuse and recycling;

25 (h) Activities to be undertaken to meet the requirement
26 established under section 9 of this act that all covered products are
27 designed to be reusable, recyclable, or compostable by 2030 in
28 accordance with criteria established by the department;

29 (i) (i) A list of covered products designated for collection as
30 required under section 11 of this act;

31 (ii) The list must identify the covered products designated for
32 collection from residents statewide:

33 (A) Through curbside collection or, where curbside garbage
34 service is not available, through permanent collection facilities;

35 (B) Through alternate collection; and

36 (C) Through public place collection;

37 (iii) If the list includes any covered product that does not meet
38 the definition of recyclable as defined in section 2 of this act, the
39 plan must provide a justification for its inclusion on the list and

1 describe activities to be undertaken to meet the definition within
2 one year of plan implementation;

3 (j) Activities to be undertaken to meet the convenience standards
4 for collection of covered products as established under section 11 of
5 this act, including:

6 (i) The jurisdictions where curbside collection services are
7 available, including the following service details:

8 (A) Service provider information, including whether the service
9 provider is a government agency, a private service provider under
10 contract with a government agency, or a private service provider
11 regulated by the utilities and transportation commission; and

12 (B) Service frequency, schedule, collection methods, types of
13 covered products included, and other pertinent service details,
14 including whether any changes are anticipated as part of plan
15 implementation;

16 (ii) The locations of permanent collection facilities and types
17 of covered products to be collected at each location, including
18 whether any changes are anticipated as part of plan implementation;

19 (iii) The types of alternate collection used other than permanent
20 collection facilities, including detailed descriptions of the
21 collection methods, any physical infrastructure used, covered
22 products included, and whether any changes are anticipated as part of
23 plan implementation; and

24 (iv) The locations of public place collection services, covered
25 products included, and whether any changes are anticipated as part of
26 plan implementation;

27 (k) Activities to be undertaken to meet the reuse and recycling
28 performance requirements as established under section 9 of this act;

29 (l) Proposed combined reuse and recycling rates for each material
30 category of covered products reported as supplied into the state, as
31 described in section 9(2) of this act, including a description of the
32 basis and reasoning for the rates proposed;

33 (m) Activities to be undertaken to implement the education and
34 outreach component as required under section 16 of this act;

35 (n) A description of proposed arrangements with material recovery
36 facilities and other processing facilities handling materials under
37 the program regarding long-term contracts and other purchase
38 arrangements, based on fair market pricing for commodities of
39 comparable quality, to facilitate recycling of covered products back

1 into covered products and encourage development of circular economic
2 activity in the state and region;

3 (o) Activities to be undertaken to minimize the amount, cost, and
4 toxicity of residuals from the collection and processing of covered
5 materials designated for collection. These include residuals from
6 materials recovery facilities or similar facilities producing
7 specification-grade commodities for sale, but do not include
8 residuals from further processing of end market-ready material;

9 (p) Activities to be undertaken to ensure that covered products
10 designated for collection do not contain toxic substances;

11 (q) A description of how plan implementation will ensure that
12 responsible management practices for covered products are maintained
13 through to final disposition;

14 (r)(i) A description of the objective method, as described in
15 section 10 of this act, for calculating reimbursement rates to
16 government agencies for services delivered in accordance with the
17 requirements of this act, whether such services are provided directly
18 or through a contracted service provider;

19 (ii) The producer responsibility organization must describe how:

20 (A) The objective method covers all obligations specified in
21 sections 10 and 11 of this act;

22 (B) Reimbursements will be distributed and detail any terms or
23 conditions covered in the service agreements with government agencies
24 for receiving reimbursements; and

25 (C) The producer responsibility organization will work with
26 government agencies and other stakeholders to ensure successful
27 implementation of the program;

28 (iii) The producer responsibility organization must provide a
29 template of the service agreement and any other forms, contracts, or
30 other documents for use in distribution of reimbursements to
31 government agencies and other stakeholders;

32 (s) A description of how the plan will address contamination from
33 covered products at compost or other organics processing facilities
34 and similar facilities, including through decontamination equipment
35 improvements and conducting packaging contamination composition
36 studies;

37 (t) A stakeholder consultation report, as described in section
38 6(3)(e) of this act;

39 (u) A description of the dispute resolution process, including
40 the process timeline, to be used, as needed, by the producer

1 responsibility organization to resolve any disputes involving
2 reimbursement of government agencies as established in sections 10
3 and 12 of this act;

4 (v) A description of how the producer responsibility organization
5 will coordinate with other producer responsibility organizations in
6 the state, if more than one producer responsibility organization is
7 registered with the department as of the date of a plan's submission;
8 and

9 (w) Any other information to be included in the plan as required
10 by the department by rule.

11 NEW SECTION. **Sec. 8.** COLLECTION AND MANAGEMENT. (1) Covered
12 products must be managed in a manner consistent with the state's
13 solid waste management hierarchy established in RCW 70A.205.005.

14 (2) Covered products collected by the program must be responsibly
15 managed at facilities operating with human health and environmental
16 protection standards that are broadly equivalent to or better than
17 those required in the United States and other countries that are
18 members of the organization for economic cooperation and development.

19 (3) Producer responsibility organizations implementing a plan
20 must include measures to:

21 (a) Track, verify, and publicly report that responsible
22 management of covered products collected by the program is maintained
23 through to final disposition;

24 (b) Promote and facilitate reuse of covered products designed to
25 be reused;

26 (c) Meet the necessary quality standards for recycled materials
27 so that covered products collected by the program may be used to
28 manufacture new products;

29 (d) Ensure that covered products collected for recycling do not
30 contain toxic substances;

31 (e)(i) Document the locations of all material recovery facilities
32 and other processing facilities used to meet the requirements of this
33 chapter, whether within Washington, elsewhere in North America, or
34 outside of North America; and

35 (ii) Describe whether the processing facilities were preexisting,
36 planned, or under construction as of plan approval.

37 (4)(a) Prior to program use of any advanced technology for
38 conversion of postuse plastic polymers for the purpose of producing
39 recycled material to be counted toward reuse and recycling

1 performance targets, the producer responsibility organization must
2 provide the department with a third-party assessment prepared to
3 examine the impact of the advanced technology on the following:

4 (i) Air and water pollution and release or creation of any
5 hazardous pollutants; and

6 (ii) The greenhouse gas emissions resulting from products and
7 processes of the advanced technology facility, taking into account
8 the full life cycle including final use of products.

9 (b) The results of the assessment under (a) of this subsection
10 must, whenever reported and communicated, provide full disclosure of
11 geographical, temporal, and technological boundaries that have been
12 selected for the assessment.

13 (c) The person preparing the assessment under (a) of this
14 subsection may not be interested, directly or indirectly, in the
15 ownership or operation of the advanced recycling facility.

16 (5) (a) Material recovery facilities and other facilities
17 receiving covered products from government agencies or private
18 service providers collected through activities undertaken in
19 accordance with this chapter must measure and report annually, in a
20 form and format approved by the department, on the following
21 parameters associated with covered products received and processed to
22 both the department and each producer responsibility organization for
23 which they provide a service:

24 (i) Tons received, by jurisdiction and service provider;

25 (ii) Inbound material quality and contamination;

26 (iii) Outbound material quality and contamination;

27 (iv) Outbound material tons and end markets, including whether
28 they are domestic, export to organization for economic cooperation
29 and development countries, or export to markets that meet
30 organization for economic cooperation and development operating
31 standards;

32 (v) Management of contaminants and residue to avoid impacts on
33 other waste streams or facilities;

34 (vi) Residuals, including residue rate, composition, and disposal
35 location;

36 (vii) Emission of pollutants to air and water, or other
37 activities that impact public health or the environment, including
38 any reporting required under existing permits where applicable; and

39 (viii) Labor metrics including, but not limited to, wages,
40 unions, and workforce demographics.

1 (b) All data reported to the department by material recovery
2 facilities and other processing facilities under this subsection must
3 be verified by an independent third party.

4 (c) A material recovery facility that submits information or
5 records to the department under this chapter may request that the
6 information or records be made available only for the confidential
7 use of the department, the director, or the appropriate division of
8 the department. The director of the department must give
9 consideration to the request and if this action is not detrimental to
10 the public interest and is otherwise in accordance with the policies
11 and purposes of chapter 43.21A RCW, the director must grant the
12 request for the information to remain confidential as authorized in
13 RCW 43.21A.160.

14 (6) Material recovery facilities and other processing facilities
15 handling materials under the program shall prioritize arrangements
16 proposed by a producer responsibility organization regarding long-
17 term contracts and other purchase agreements, based on fair market
18 pricing for commodities of comparable quality, to facilitate
19 recycling of covered products back into covered products and
20 encourage development of circular economic activity in the state and
21 region.

22 NEW SECTION. **Sec. 9.** REUSE AND RECYCLING PERFORMANCE
23 REQUIREMENTS. (1) To meet the reuse and recycling performance
24 requirements established in this section, a producer responsibility
25 organization must:

26 (a) (i) Demonstrate that all covered products are designed to be
27 reusable, recyclable, or compostable by January 1st, of the ninth
28 calendar year from the effective date of this section, in accordance
29 with criteria established by the department;

30 (ii) A producer or a producer responsibility organization on
31 behalf of a member producer may apply for a waiver from the
32 department for a temporary exclusion of a covered product from the
33 requirement under (a) (i) of this subsection for the upcoming year for
34 any types of covered products for which a producer or producer
35 responsibility organization annually demonstrates to the department
36 by December 31st of a given year that it is not technologically
37 feasible in order to comply with health or safety requirements of a
38 federal law;

1 (b) Demonstrate that the covered products collected by the
2 program were managed consistent with section 8 of this act;

3 (c) Calculate, verified by an independent auditor, the reuse and
4 recycling rates of covered products, as specified under subsections
5 (2) through (4) of this section, and provide the verification to the
6 department as part of the annual reporting requirements established
7 under section 17 of this act.

8 (2) At minimum, each program must achieve the following
9 performance requirements:

10 (a) By the sixth calendar year from the effective date of this
11 section, a minimum of 55 percent of all covered products reported by
12 the producer responsibility organization as supplied into the state
13 are reused or recycled, with a minimum of five percent reused;

14 (b) By the ninth calendar year from the effective date of this
15 section, a minimum of 75 percent of all covered products reported by
16 the producer responsibility organization as supplied into the state
17 are reused or recycled, with a minimum of 10 percent reused;

18 (c) For each material category of covered products reported by
19 the producer responsibility organization as supplied into the state,
20 by the sixth calendar year from the effective date of this section,
21 each program must achieve the following combined reuse and recycling
22 rates:

Material category	
Rigid plastic	25 percent
Flexible plastic	5 percent
Paper	60 percent
Aluminum	55 percent
Steel	45 percent
Glass	50 percent

23
24
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30 (d) (i) In its initial plan, a producer responsibility
31 organization must propose combined reuse and recycling rates for each
32 material category of covered products reported as supplied into the
33 state, to be achieved by the ninth calendar year from the effective
34 date of this section, and by the final calendar year of each plan
35 implementation period under each subsequent plan;

36 (ii) The proposed combined reuse and recycling rates for each
37 material category of covered products must:

1 (A) Increase by at least 20 percentage points above the rate
2 required under the previous plan implementation period if the
3 previous rate requirement was 60 percent or below;

4 (B) Increase by at least 10 percentage points above the rate
5 required under the previous plan implementation period if the
6 previous rate requirement was above 60 percent, up to a rate of 90
7 percent;

8 (C) Be demonstrated to be consistent with achievement of the
9 overall reuse and recycling rates for all covered products
10 established in (a) and (b) of this subsection and with those set by
11 the department in accordance with section 4(7)(a)(ii) of this act;

12 (D) Align with the rates proposed by any other producer
13 responsibility organization that is registered with the department;

14 (iii) To develop the proposed rates, the producer responsibility
15 organization shall consider the rates required or achieved in other
16 jurisdictions with producer responsibility organization requirements
17 for similar material categories and evaluate whether those rates are
18 applicable in the state;

19 (e) A program that achieves the reuse and recycling rate
20 requirements established for each material category of covered
21 products reported by the producer responsibility organization as
22 supplied into the state and achieves the minimum reuse rates as
23 established in (a) and (b) of this subsection may be considered to
24 achieve the overall reuse and recycling performance requirements for
25 all covered products as established in (a) and (b) of this
26 subsection.

27 (3) For the purposes of this chapter, the amount of recycled
28 material must be measured at the following calculation point for each
29 material category of covered products included in the plan:

30 (a) Rigid plastic material that:

31 (i) Is delivered to a facility for flaking, pelletization,
32 extrusion, molding, or advanced technology for conversion of postuse
33 plastic polymers for use in the production of new products whether
34 for the original or another purpose; or

35 (ii) Is compostable and is delivered to an industrial composting
36 facility under an agreement with that facility;

37 (b) Flexible plastic material that:

38 (i) Is delivered to a facility for flaking, pelletization,
39 extrusion, molding, or advanced technology for conversion of postuse

1 plastic polymers for use in the production of new products whether
2 for the original or another purpose; or

3 (ii) Is compostable and is delivered to an industrial composting
4 facility under an agreement with that facility;

5 (c) Paper material that:

6 (i) Is delivered to a pulping operation or other facility for use
7 in the production of new products whether for the original or another
8 purpose; or

9 (ii) Is compostable and is delivered to an industrial composting
10 facility under an agreement with that facility;

11 (d) Aluminum material that is delivered to a metal smelter or
12 furnace or other facility for use in the production of new products
13 whether for the original or another purpose;

14 (e) Steel material that is delivered to a metal smelter or
15 furnace or other facility for use in the production of new products
16 whether for the original or another purpose;

17 (f) Glass material that is delivered to a glass furnace or other
18 facility for the production of glass containers and products;

19 (g) For materials that are not included in the material
20 categories listed in (a) through (f) of this subsection, the
21 calculation point must be proposed and described by the producer
22 responsibility organization in its plan and annual report and is
23 subject to approval by the department in order to be included in the
24 reuse and recycling rate calculation.

25 (4) For each material category of covered product included in the
26 plan, the combined reuse and recycling rate must be calculated as the
27 sum of the amount of reused material and recycled material managed by
28 the program in a given year, divided by the amount of covered
29 products supplied into the state in the same year, expressed as a
30 percentage, where:

31 (a) Covered products supplied into the state in a given year is
32 the amount calculated in accordance with section 17(2)(b) of this
33 act;

34 (b) Reused material is the amount of covered product managed by
35 the program in the same year that was sold or supplied for reuse for
36 their original or similar purpose or function; and

37 (c) Recycled material is the amount produced from covered
38 products managed by the program in the same year measured in
39 accordance with subsection (3) of this section.

1 (5) A producer responsibility organization that does not achieve
2 the reuse and recycling performance requirements established in
3 subsection (2) of this section must submit a revised plan to the
4 department no later than 90 days after submitting an annual report as
5 required under section 17 of this act, in which the failure to
6 achieve the reuse and recycling performance requirements are
7 identified. The revised plan must include changes to the plan
8 specifying how the program will be modified to meet the requirements
9 of this section.

10 NEW SECTION. **Sec. 10.** FUNDING REQUIREMENTS. (1) A producer
11 responsibility organization implementing a plan must fully fund all
12 activities required under this chapter.

13 (2) A nonreimbursable point-of-sale fee may not be charged to
14 consumers to recoup the costs of meeting producer obligations under
15 this chapter.

16 (3) A producer responsibility organization must develop a fee
17 system to collect fees from participating producers to cover the
18 costs of plan implementation.

19 (4) The fee system must be based on the estimated cost of
20 managing the material categories of covered products, based on the
21 following:

22 (a) The total annual amount of covered products sold or supplied
23 into the state, by material category, whether or not the material is
24 currently recyclable or designated for collection for recycling;

25 (b) The material characteristics and the costs associated with
26 the management of each material category; and

27 (c) The commodity value of each material category as a recycled
28 material.

29 (5)(a) The fee system must use ecomodulation factors to
30 incentivize the use of packaging design attributes that reduce the
31 environmental impacts of covered products, such as to:

32 (i) Encourage designs intended to facilitate reuse and recycling;

33 (ii) Encourage the use of recycled content;

34 (iii) Discourage the use of problematic materials that increase
35 system costs of managing covered products; and

36 (iv) Encourage other design attributes that reduce the
37 environmental impacts of covered products including, but not limited
38 to, the potential to create litter.

1 (b) Any system of program fees owed by producers that includes
2 discounted fees or favorable treatment of covered products deemed to
3 be reusable must establish a basis for determining that products, in
4 practice, are typically reused a minimum number of times.

5 (c) Fees collected under this fee system must be used exclusively
6 for plan implementation and other activities required under this
7 chapter.

8 (6)(a) A producer responsibility organization must reimburse a
9 government agency that chooses to seek reimbursement for recycling
10 services delivered in accordance with section 12 of this act
11 including, as applicable, any administrative, public education,
12 collection, transportation, and sorting or processing costs with
13 consideration of revenues received for recycled materials, whether
14 such services are provided directly or through a contracted service
15 provider.

16 (b)(i) Reimbursement rates must be calculated using an objective
17 method developed through the consultation process established under
18 section 6 of this act that reflects system costs, with consideration
19 of all costs described in (a) of this subsection and revenues
20 received for recycled materials.

21 (ii) Reimbursement rates must be based on documented costs and
22 revenues submitted by the government agency or, if documented costs
23 and revenues are not provided by the government agency, a formula
24 developed through the consultation process and established in the
25 producer responsibility organization's plan.

26 (iii) The formula may be varied based on regional costs,
27 population density rates, number and types of households serviced,
28 collection method used, and any additional cost factors identified in
29 the statewide needs assessment established under section 5 of this
30 act and through the consultation process established under section 6
31 of this act.

32 (c) Terms or conditions for reimbursement to government agencies
33 must be established using a service agreement developed through the
34 consultation process. A template of the service agreement and of any
35 other forms, contracts, or other documents for use in distribution of
36 reimbursements to government agencies must be made available to
37 government agencies and other stakeholders and included in the plan
38 submitted to the department.

39 (d) If more than one producer responsibility organization is
40 registered within the state, each producer responsibility

1 organization must coordinate with other producer responsibility
2 organizations to provide reimbursement and ensure that government
3 agencies are reimbursed for recycling services.

4 NEW SECTION. **Sec. 11.** CONVENIENCE STANDARDS. (1) In every
5 jurisdiction in which covered products are sold or supplied to
6 consumers, a producer responsibility organization must ensure
7 convenient collection services are available for the full list of
8 covered products designated for collection in the plan. Convenient
9 collection services must be available to residents as follows:

10 (a) Curbside collection must be provided to residents in single-
11 family and multifamily residences wherever curbside garbage
12 collection services are provided to these entities, except for
13 covered products designated for alternate collection;

14 (b) In jurisdictions without curbside garbage collection, and in
15 all areas for covered products designated for alternate collection,
16 free and equitable access to permanent collection facilities must be
17 provided that are located, at minimum, at:

18 (i) Each solid waste transfer, processing, disposal site or other
19 drop-off location, or a location of equal convenience, as it existed
20 prior to the effective date of this section; and

21 (ii) Additional drop-off locations or collection events in
22 communities that are not covered by a collection location described
23 in (b)(i) and (ii) of this subsection. The producer responsibility
24 organization, in consultation with the department, the relevant
25 government agency, and the local community, must determine a
26 reasonable location of additional drop-off locations or frequency and
27 location of collection events to be held in underserved areas. The
28 producer responsibility organization must give special consideration
29 for providing opportunities to island and geographically isolated
30 populations;

31 (c) Under initial plan implementation, collection must be
32 provided in public places:

33 (i) Where recycling collection receptacles were in place and
34 managed by government agencies prior to the effective date of this
35 section; and

36 (ii) At optimal locations as determined by the statewide needs
37 assessment in section 5 of this act.

38 (2) In any jurisdiction where collection of source separated
39 recyclable materials from residences is provided by a city or town

1 under the authority of RCW 35.21.120, by a county under the authority
2 of RCW 36.58.040, or by a company that holds an applicable
3 certificate under the authority of chapter 81.77 RCW, a producer
4 responsibility organization must meet its curbside collection service
5 obligation through the existing curbside collection service as
6 described in section 12 of this act.

7 (3) (a) A producer responsibility organization must, in its plan,
8 establish a statewide list of covered products designated for
9 collection.

10 (b) If more than one producer responsibility organization is
11 registered with the state, each producer responsibility organization
12 must coordinate with other producer responsibility organizations to
13 establish the statewide list of covered products designated for
14 collection.

15 (4) Every producer responsibility organization must identify in
16 its plan and on its website, in appropriate languages, each area
17 where curbside and alternative collection services are available, the
18 location of each permanent collection opportunity for covered
19 products, the types and locations of alternate collection methods
20 used, and the locations of public place collection services.

21 NEW SECTION. **Sec. 12.** GOVERNMENT AGENCIES—AUTHORITY TO COLLECT
22 COVERED PRODUCTS. (1) The provisions of this chapter do not:

23 (a) Obligate a county, city, or town that utilizes its contract
24 authority under RCW 35.21.120 or 36.58.040 for collection of source
25 separated recyclable materials from residents or a city or town that
26 undertakes collection of source separated recyclable materials from
27 residents to participate in a plan implemented by a producer
28 responsibility organization;

29 (b) Restrict the authority of a city under RCW 35.21.120,
30 35.21.130, and 35.21.152; or

31 (c) Restrict the authority of a county under RCW 36.58.040.

32 (2) (a) A city, town, county, or other government agency may enter
33 into contractual agreements with producer responsibility
34 organizations for the purposes of reimbursement of costs of services
35 provided in accordance with the requirements of this chapter.

36 (b) The producer responsibility organization must reimburse the
37 government agency for services delivered in accordance with the
38 requirements of this chapter using the service agreement and the

1 objective method for calculating reimbursement established under
2 section 10 of this act.

3 (c) A government agency is not restricted from including
4 additional materials in curbside collection that are not part of the
5 statewide list of covered products designated for collection, but the
6 producer responsibility organization is not obligated to reimburse
7 costs associated with the additional services.

8 (3) Where a city or town chooses not to exercise its authority
9 under chapter 35.21 RCW, or a county chooses not to exercise its
10 authority under chapter 36.58 RCW, curbside collection of covered
11 products designated for collection as source separated recyclable
12 materials from residences in areas regulated by the utilities and
13 transportation commission under the provisions of chapter 81.77 RCW
14 must be provided by a company that holds an applicable certificate
15 issued by the commission.

16 (4) Cities and counties are not obligated to provide resident
17 education but may carry out or contract for resident education and
18 outreach consistent with producer responsibility organization plan
19 provisions under section 16 of this act and be reimbursed for the
20 costs of these initiatives using the service agreement and objective
21 method for calculating reimbursement established under section 10 of
22 this act.

23 NEW SECTION. **Sec. 13.** SERVICE PROVIDER COST REIMBURSEMENT FOR
24 SERVICES REGULATED BY THE UTILITIES AND TRANSPORTATION COMMISSION. In
25 areas where collection of source separated recyclable materials from
26 residences is regulated by the utilities and transportation
27 commission under chapter 81.77 RCW:

28 (1) A producer responsibility organization must provide
29 reimbursement to the company granted a certificate to provide the
30 service in accordance with the rates approved by the commission,
31 including all associated taxes and fees that would be otherwise
32 charged to residential customers directly or indirectly for recycling
33 service, provided that the service:

34 (a) Is offered to residents in single-family and multifamily
35 residences wherever curbside garbage collection services are offered;

36 (b) Includes collection of all covered products designated for
37 curbside collection;

1 (c) Aligns with any other service standards established by the
2 producer responsibility organization plan under section 7 of this
3 act; and

4 (d) Is provided in a manner consistent with the requirements of
5 this chapter.

6 (2) The commission may review the financial operations of any
7 private recycling business that receives covered products collected
8 as source separated recyclable materials collected from residences
9 from a company granted a certificate to provide the service for the
10 purposes of regulating rates and fees charged to a producer
11 responsibility organization for handling of these materials.

12 NEW SECTION. **Sec. 14.** SERVICE PROVIDER AGREEMENTS. Except for
13 residential curbside recycling services provided in accordance with
14 sections 11 and 12 of this act, a producer responsibility
15 organization that enters into contractual agreements with service
16 providers to carry out producer responsibilities under this act must:

17 (1) Use open, competitive, and fair procurement practices;

18 (2) Provide opportunities for women, minority, or veteran-owned
19 businesses, small businesses, and independent operators to
20 participate as service providers;

21 (3) Ensure that all contracted service providers:

22 (a) Meet minimum operating standards, including the requirements
23 of this chapter and chapter 70A.205 RCW;

24 (b) Meet high labor standards, including family-level wages,
25 providing benefits including health care and pensions, and
26 demonstrate procurement from and contracts with women, minority, or
27 veteran-owned businesses; and

28 (c) Provide fair opportunities regardless of ethnicity, race,
29 gender, age, disability, religion, sexual orientation, or national
30 origin; and

31 (4) Ensure that contracted service providers maintain records and
32 provide the producer responsibility organization with verifiable
33 chain of custody documentation, reporting parameters for material
34 recovery facilities and other processing facilities under section 8
35 of this act, and other documentation necessary to evaluate the
36 performance relative to the requirements of this chapter. The
37 producer responsibility organization must submit the records and
38 documentation required under this subsection to the department, upon
39 request by the department.

1 NEW SECTION. **Sec. 15.** INFRASTRUCTURE INVESTMENTS. (1) Each
2 producer responsibility organization must invest in reuse and
3 recycling infrastructure and market development in Washington state
4 as needed to achieve the convenience standards specified in section
5 11 of this act, the management standards specified in section 8 of
6 this act, the recycling and reuse rate requirements specified in
7 section 9 of this act, or to address infrastructure gaps identified
8 through the statewide needs assessment under section 5 of this act
9 and through the consultation process under section 6 of this act.
10 This may include, but is not limited to:

11 (a) Installing or upgrading equipment to improve sorting of
12 covered products or mitigating the impacts of covered products to
13 other commodities at existing sorting and processing facilities; and

14 (b) Capital expenditures for new technology, equipment, and
15 facilities.

16 (2) Infrastructure investments must be detailed in the annual
17 report submitted to the department. If a producer responsibility
18 organization did not invest in preexisting reuse and recycling
19 infrastructure within Washington state, the annual report must
20 include a statement of the reasons why no such investment was made.

21 NEW SECTION. **Sec. 16.** EDUCATION AND OUTREACH. (1) Each plan
22 implemented by a producer responsibility organization under this
23 chapter must include an education and outreach component that
24 effectively reaches diverse residents, is accessible, is clear, and
25 supports the achievement of the reuse and recycling performance
26 requirements under section 9 of this act. The education and outreach
27 component must, at minimum:

28 (a) Develop and provide outreach and educational materials,
29 resources, and campaigns about the program to be used by retailers,
30 collectors, government agencies, and nonprofit organizations. The
31 materials, resources, and campaigns developed under this section must
32 address, at minimum, information about:

33 (i) Proper end-of-life management of covered products;

34 (ii) Where and how to recycle covered products designated for
35 collection; and

36 (iii) How to prevent contamination;

37 (b) Coordinate and fund the distribution of statewide promotional
38 campaigns developed under this section through media channels that

1 may include, but need not be limited to, print publications, radio,
2 television, the internet, and online streaming services;

3 (c) Use consistent and easy to understand messaging and education
4 statewide, with the aim of reducing resident confusion regarding the
5 recyclability and end-of-life management options available for
6 different covered products;

7 (d) Be conceptually, linguistically, and culturally accurate for
8 the communities served and tailored to effectively reach the state's
9 diverse populations, including through meaningful consultation with
10 overburdened communities and vulnerable populations as defined in RCW
11 70A.02.010;

12 (e) Establish a process for answering customer questions and
13 resolving customer concerns; and

14 (f) Evaluate the effectiveness of education and outreach efforts
15 for the purposes of making progress toward performance requirements
16 established in this chapter.

17 (2) A producer responsibility organization must coordinate with
18 government agencies that choose to participate in carrying out
19 resident education and outreach in accordance with the approach
20 specified in the producer responsibility organization's plan.

21 NEW SECTION. **Sec. 17.** ANNUAL REPORTING ON ACTIVITIES. (1)
22 Beginning July 1, 2027, and each July 1st thereafter, each producer
23 responsibility organization must submit an annual report to the
24 department for the preceding calendar year of plan implementation.

25 (2) Each annual report must include the following information:

26 (a) Identification of the governing board members of the producer
27 responsibility organization;

28 (b) The quantity of covered products supplied, including:

29 (i) A list and explanation of the covered products supplied or
30 sold in or into Washington to consumers by each member producer and
31 their brands of covered products participating in the program;

32 (ii) A list of covered products supplied that are designated for
33 collection under the plan approved by the department;

34 (iii) The weight and, where applicable and determined by the
35 department to be necessary, number of units, by material category, of
36 covered products supplied into the state to consumers for personal
37 use, to be used for the purposes of calculating the reuse and
38 recycling rate requirements under section 9 of this act;

1 (iv) (A) A description of how the producer responsibility
2 organization has distinguished and apportioned the quantities of
3 packaging and paper products sold or supplied to consumers for
4 personal use, which are considered covered products under this
5 chapter, from quantities of packaging and paper products sold or
6 supplied for other uses that are not considered covered products
7 under this chapter;

8 (B) A producer responsibility organization may rely on member
9 reporting for this description; and

10 (v) The quantity of covered products supplied that were designed
11 to be reusable, recyclable, or compostable in accordance with
12 criteria established by the department, reported separately for each
13 of these categories by material, weight, and, where applicable and
14 determined by the department to be necessary, number of units;

15 (c) The quantity of material managed and methods of management by
16 the program, including:

17 (i) The weight, by material category, of all material managed by
18 the program, including covered products and other materials;

19 (ii) The weight, by material category, of reused material managed
20 by the program, measured as defined in section 9 of this act, and,
21 where applicable and determined by the department to be necessary,
22 the number of units;

23 (iii) The weight, by material category, of recycled material
24 managed by the program, measured as defined in section 9 of this act;

25 (iv) The weight, by material category, of material managed by the
26 program sent for energy recovery;

27 (v) The weight, by material category, of material managed by the
28 program sent for landfill disposal; and

29 (vi) The weight, by material category, of material managed by the
30 program for other methods of management not listed in (c)(ii) through
31 (v) of this subsection, accompanied by a description of each other
32 method used;

33 (d) The final destinations of recycled material managed by the
34 program, including:

35 (i) Names and locations of end users or reprocessors that
36 received recycled material managed by the program, by material
37 category; and

38 (ii) Descriptions of the forms of recycled material managed by
39 the program that were sold or supplied to the end users or
40 reprocessors;

1 (e) The reuse and recycling rates achieved by the program, for
2 each material category of covered product supplied and for all
3 covered products supplied into the state, calculated in accordance
4 with the requirements in section 9 (3) and (4) of this act;

5 (f) A description of the levels and types of physical
6 contamination in the materials collected and managed by the program;

7 (g) Activities undertaken to meet the convenience standards for
8 collection of covered products as established under section 11 of
9 this act, including:

10 (i) A list of jurisdictions and service providers where curbside
11 collection services are provided by the program, accompanied by a
12 brief description of services provided, locations and operating hours
13 of permanent collection facilities, types and locations of alternate
14 collection methods used, and locations of public place collection
15 services; and

16 (ii) Collection service accessibility and convenience metrics,
17 including population coverage, the geographic distribution of
18 collection, and the distance of collection locations to state
19 residents;

20 (h) A description of the investments made in reuse and recycling
21 infrastructure and market development in Washington state, including:

22 (i) The amount spent expressed as a percentage of the program's
23 total annual expenditures;

24 (ii) The locations of all material recovery facilities and other
25 processing facilities used to meet the requirements of this chapter,
26 whether within Washington, elsewhere in North America, or outside of
27 North America;

28 (iii) Whether the facilities were preexisting, planned, or under
29 construction as of plan approval; and

30 (iv) The reasons, if any, the producer responsibility
31 organization has used alternatives to preexisting local collection
32 and processing facilities to meet the requirements under this
33 chapter;

34 (i) A detailed description of education and outreach activities
35 undertaken and a summary of the evaluation of education and outreach
36 effectiveness;

37 (j) A description of actions taken by member producers to:

38 (i) Prevent and reduce waste and reduce the life-cycle
39 environmental impacts of covered products supplied or sold in or into
40 Washington;

1 (ii) Address toxic substances in covered products; and
2 (iii) Design covered products to be reusable, recyclable, or
3 compostable in accordance with criteria established by the
4 department;

5 (k) A description of any other activities undertaken in
6 accordance with those listed to be undertaken in the plan;

7 (l) An assessment of the greenhouse gas emissions associated with
8 program operations, including both direct emissions and indirect
9 emissions with all activities, and including the avoided emissions
10 from source reduction, reuse, and recycling of covered products into
11 new products and materials;

12 (m) A summary of renew advisory council, established in section
13 19 of this act, engagement and input as well as comments received
14 from additional stakeholders and community members;

15 (n) The total cost of implementing the plan approved by the
16 department, as determined by an independent financial audit and
17 performed by an independent auditor, including:

18 (i) Information regarding the independently audited financial
19 statements detailing all payments received and issued by the producer
20 responsibility organization covered by the plan approved by the
21 department;

22 (ii) A copy of the independent audit; and

23 (iii) A detailed description of how the program compensates
24 government agencies, private collection and transportation service
25 providers, sorting and processing facilities, and other approved
26 entities for services under this act; and

27 (o) Any other information required by the department, as adopted
28 by rule.

29 (3)(a) Prior to the submission of the annual report, all
30 nonfinancial data and information that is material to the
31 department's review of the program's compliance with the requirements
32 of this chapter must be annually audited.

33 (b) Annual independent auditing and verification must:

34 (i) Include documentation of the reuse and recycling rate
35 calculations;

36 (ii) Encompass the management of materials from the point of
37 collection through processing and sale of recycled materials; and

38 (iii) Determine whether all facilities involved in the
39 collection, processing, and final disposition of collected covered

1 products are operating in accordance with the requirements of this
2 chapter and responsible management of covered products.

3 NEW SECTION. **Sec. 18.** PLAN APPROVAL, UPDATES, AND REVISIONS.

4 (1)(a) A producer responsibility organization must submit a plan to
5 the department that addresses five calendar years of operation. A
6 plan is valid for no more than five years.

7 (i) Within three years of implementation of its initial plan, a
8 producer responsibility organization must submit an updated plan for
9 the following five calendar years to address changes in the
10 operations and activities of the program.

11 (ii) For all subsequent plans submitted after the initial plan, a
12 producer responsibility organization must submit, one year prior to
13 the expiration of the plan, an updated plan for the following five
14 calendar years of operation to address changes in the operations and
15 activities of the program.

16 (b) If the reuse and recycling performance requirements
17 established under section 9 of this act have not been met as of the
18 time of plan update, an independent evaluation must be conducted of
19 the producer responsibility organization's efforts to implement the
20 plan approved by the department. The evaluation must provide
21 information for the producer responsibility organization to use to
22 target and improve reuse and recycling rate performance.

23 (c) A producer responsibility organization must carry out the
24 consultation process established in section 6 of this act prior to
25 the submission of each plan and plan update.

26 (2)(a) A producer responsibility organization may choose to
27 revise its plan if significant changes have occurred.

28 (b) The department may require a producer responsibility
29 organization to revise its plan more frequently than every five years
30 if:

31 (i) The program and activities to implement the plan fail to
32 achieve the reuse and recycling performance requirements established
33 in section 9 of this act or otherwise fail to achieve significant
34 requirements under this chapter; or

35 (ii) There are significant changes to the regulatory or economic
36 environment in which plan activities are being carried out.

37 NEW SECTION. **Sec. 19.** RENEW ADVISORY COUNCIL. (1) The renew
38 advisory council is established.

1 (2) The council consists of members appointed by the department
2 as follows:

3 (a) Four representatives of local governments representing
4 geographic areas across the state, including urban and rural
5 communities;

6 (b) One representative of tribes or tribal or indigenous services
7 organizations;

8 (c) One representative of special purpose districts;

9 (d) Two representatives of community-based organizations
10 representing the interests of overburdened communities and vulnerable
11 populations as defined in RCW 70A.02.010;

12 (e) Two representatives of environmental nonprofit organizations;

13 (f) One owner or operator of a small business that is not
14 eligible for representation under (g), (h), or (i) of this
15 subsection;

16 (g) Six representatives of the recycling industry, including
17 local governments' service providers, solid waste collection
18 companies or associations, material recovery facilities or other
19 processing facilities;

20 (h) Four representatives of producers of covered products or
21 producer trade associations representing different types of covered
22 products. A member appointed to the council under this subsection may
23 not be a representative or a member of the board of directors of a
24 producer responsibility organization registered with the department
25 under section 3 of this act; and

26 (i) Two representatives of packaging suppliers that are not
27 producers as defined under this act representing different material
28 categories.

29 (3) Renew advisory councilmembers must be appointed by the
30 director of the department by January 1, 2023. In appointing members,
31 the department shall:

32 (a) Appoint members that, to the greatest extent practicable,
33 represent diversity in race, ethnicity, age, and gender, urban and
34 rural areas, and different regions of the state;

35 (b) Consider recommendations for appointments from relevant
36 represented groups or associations and from individuals interested in
37 participating on the council.

38 (4) (a) The terms of initial appointments must be staggered to two
39 and three-year appointments, with subsequent terms of three years.
40 Members are eligible for reappointment.

1 (b) If there is a vacancy for any reason, the department shall
2 make an appointment to become effective immediately for the unexpired
3 term.

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

10 (b) The council may adopt bylaws and a charter for the operation
11 of its business for the purposes of this chapter.

12 (6) The council shall meet at least once every three months for
13 the first three years, at times and places specified by the
14 chairperson. The council may also meet at other times and places
15 specified by the call of the chairperson or of a majority of the
16 councilmembers, as necessary, to carry out the duties of the council.

17 (7) (a) The department shall provide staff support and
18 facilitation as necessary for the council to carry out the duties of
19 the council.

20 (b) The department may select an impartial, third-party
21 facilitator to convene and provide administrative support to the
22 council.

23 (8) The duties of the council include the following:

24 (a) Advise and make recommendations to the department on the
25 scope of the statewide needs assessment;

26 (b) Review and comment on a draft statewide needs assessment
27 prior to its completion;

28 (c) Advise and make recommendations to any registered producer
29 responsibility organization during stakeholder consultation on plans
30 as required under section 6 of this act;

31 (d) Review and comment on all new, updated, and revised plans
32 submitted by producer responsibility organizations to the department,
33 including making recommendations to the department on plan approvals,
34 as part of the public comment period as established under section 4
35 of this act;

36 (e) Advise and make recommendations to any registered producer
37 responsibility organization on annual reports prior to submission as
38 established in section 17 of this act;

39 (f) Review and comment on all annual reports submitted by
40 producer responsibility organizations to the department, including

1 making recommendations to the department regarding the need for any
2 plan amendments or other recommendations regarding program
3 activities; and

4 (g) Provide input, review, and comment on rule making developed
5 by the department under section 4 of this act.

6 (9) Renew advisory council members that are representatives of
7 tribes or tribal and indigenous services organizations or community-
8 based and environmental nonprofit organizations must, if requested,
9 be compensated and reimbursed in accordance with RCW 43.03.050,
10 43.03.060, and 43.03.220.

11 (10) The department must include costs related to the renew
12 advisory council in the estimate of annual costs as established in
13 section 4 of this act, including costs for:

14 (a) Department resources, including staff time;

15 (b) A third-party facilitator; and

16 (c) Expenses related to member participation as established in
17 subsection (9) of this section.

18 **Sec. 20.** RCW 70A.245.010 and 2021 c 313 s 2 are each amended to
19 read as follows:

20 The definitions in this section apply throughout this chapter
21 unless the context clearly requires otherwise.

22 (1) "Beverage" means beverages identified in (a) through (f) of
23 this subsection, intended for human or animal consumption, and in a
24 quantity more than or equal to two fluid ounces and less than or
25 equal to one gallon:

26 (a) Water and flavored water;

27 (b) Beer or other malt beverages;

28 (c) Wine;

29 (d) Distilled spirits;

30 (e) Mineral water, soda water, and similar carbonated soft
31 drinks; and

32 (f) Any beverage other than those specified in (a) through (e) of
33 this subsection, except infant formula as defined in 21 U.S.C. Sec.
34 321(z), medical food as defined in 21 U.S.C. Sec. 360ee(b)(3), or
35 fortified oral nutritional supplements used for persons who require
36 supplemental or sole source nutritional needs due to special dietary
37 needs directly related to cancer, chronic kidney disease, diabetes,
38 or other medical conditions as determined by the department.

1 (2) "Beverage manufacturing industry" means an association that
2 represents beverage producers.

3 (3) "Condiment packaging" means packaging used to deliver single-
4 serving condiments to customers. Condiment packaging includes, but is
5 not limited to, single-serving packaging for ketchup, mustard,
6 relish, mayonnaise, hot sauce, coffee creamer, salad dressing, jelly,
7 jam, and soy sauce.

8 (4) (a) "Covered product" means an item in one of the following
9 categories subject to minimum postconsumer recycled content
10 requirements:

11 (i) Plastic trash bags;

12 (ii) Household cleaning and personal care products that use
13 plastic household cleaning and personal care product containers;

14 (~~and~~)

15 (iii) Beverages that use plastic beverage containers;

16 (iv) Polypropylene tubs used for food products;

17 (v) PET thermoform plastic containers; and

18 (vi) Single-use plastic cups.

19 (b) "Covered product" does not include any type of container or
20 bag for which the state is preempted from regulating content of the
21 container material or bag material under federal law.

22 (5) "Dairy milk" means a beverage that designates milk as the
23 predominant (first) ingredient in the ingredient list on the
24 container's label.

25 (6) "Department" means the department of ecology.

26 (7) "Expanded polystyrene" means blown polystyrene and expanded
27 and extruded foams that are thermoplastic petrochemical materials
28 utilizing a styrene monomer and processed by any number of techniques
29 including, but not limited to, fusion of polymer spheres (expandable
30 bead polystyrene), injection molding, foam molding, and extrusion-
31 blow molding (extruded foam polystyrene).

32 (8) "Food service business" means a business selling or providing
33 food for consumption on or off the premises, and includes full-
34 service restaurants, fast food restaurants, cafes, delicatessens,
35 coffee shops, grocery stores, vending trucks or carts, home delivery
36 services, delivery services provided through an online application,
37 and business or institutional cafeterias.

38 (9) "Food service product" means a product intended for one-time
39 use and used for food or drink offered for sale or use. Food service
40 products include, but are not limited to, containers, plates, bowls,

1 cups, lids, beverage containers, meat trays, deli rounds, utensils,
2 sachets, straws, condiment packaging, clamshells and other hinged or
3 lidded containers, wrap, and portion cups.

4 (10) "Household cleaning and personal care product" means any of
5 the following:

6 (a) Laundry detergents, softeners, and stain removers;

7 (b) Household cleaning products;

8 (c) Liquid soap;

9 (d) Shampoo, conditioner, styling sprays and gels, and other hair
10 care products; or

11 (e) Lotion, moisturizer, facial toner, and other skin care
12 products.

13 (11) "Household cleaning and personal care product manufacturing
14 industry" means an association that represents companies that
15 manufacture household cleaning and personal care products.

16 (12) "Licensee" means a manufacturer or entity who licenses a
17 brand and manufactures a covered product under that brand.

18 (13) "Oral nutritional supplement" means a manufactured liquid,
19 powder capable of being reconstituted, or solid product that contains
20 a combination of carbohydrates, proteins, fats, fiber, vitamins, and
21 minerals intended to supplement a portion of a patient's nutrition
22 intake.

23 (14) "Plastic beverage container" means a bottle or other rigid
24 container that is capable of maintaining its shape when empty,
25 comprised solely of one or multiple plastic resins designed to
26 contain a beverage. Plastic beverage container does not include:

27 (a) Refillable beverage containers, such as containers that are
28 sufficiently durable for multiple rotations of their original or
29 similar purpose and are intended to function in a system of reuse;

30 (b) Rigid plastic containers or plastic bottles that are or are
31 used for medical devices, medical products that are required to be
32 sterile, nonprescription and prescription drugs, or dietary
33 supplements as defined in RCW 82.08.0293;

34 (c) Bladders or pouches that contain wine; or

35 (d) Liners, caps, corks, closures, labels, and other items added
36 externally or internally but otherwise separate from the structure of
37 the bottle or container.

38 (15)(a) "Plastic household cleaning and personal care product
39 container" means a bottle, jug, or other rigid container with a neck
40 or mouth narrower than the base, and:

1 (i) A minimum capacity of eight fluid ounces or its equivalent
2 volume;

3 (ii) A maximum capacity of five fluid gallons or its equivalent
4 volume;

5 (iii) That is capable of maintaining its shape when empty;

6 (iv) Comprised solely of one or multiple plastic resins; and

7 (v) Containing a household cleaning or personal care product.

8 (b) "Plastic household cleaning and personal care product
9 container" does not include:

10 (i) Refillable household cleaning and personal care product
11 containers, such as containers that are sufficiently durable for
12 multiple rotations of their original or similar purpose and are
13 intended to function in a system of reuse; and

14 (ii) Rigid plastic containers or plastic bottles that are medical
15 devices, medical products that are required to be sterile, and
16 nonprescription and prescription drugs, dietary supplements as
17 defined in RCW 82.08.0293, and packaging used for those products.

18 (16) "Plastic trash bag" means a bag that is made of
19 noncompostable plastic, is at least 0.70 mils thick, and is designed
20 and manufactured for use as a container to hold, store, or transport
21 materials to be discarded or recycled, and includes, but is not
22 limited to, a garbage bag, recycling bag, lawn or leaf bag, can liner
23 bag, kitchen bag, or compactor bag. "Plastic trash bag" does not
24 include any compostable bags meeting the requirements of chapter
25 70A.455 RCW.

26 (17) "Plastic trash bag manufacturing industry" means an
27 association that represents companies that manufacture plastic trash
28 bags.

29 (18) "Postconsumer recycled content" means the content of a
30 covered product made of recycled materials derived specifically from
31 recycled material generated by households or by commercial,
32 industrial, and institutional facilities in their role as end users
33 of a product that can no longer be used for its intended purpose.
34 "Postconsumer recycled content" includes returns of material from the
35 distribution chain.

36 (19)(a) "Producer" means the following person responsible for
37 compliance with minimum postconsumer recycled content requirements
38 under this chapter for a covered product sold, offered for sale, or
39 distributed in or into this state:

1 (i) If the covered product is sold under the manufacturer's own
2 brand or lacks identification of a brand, the producer is the person
3 who manufactures the covered product;

4 (ii) If the covered product is manufactured by a person other
5 than the brand owner, the producer is the person who is the licensee
6 of a brand or trademark under which a covered product is sold,
7 offered for sale, or distributed in or into this state, whether or
8 not the trademark is registered in this state, unless the
9 manufacturer or brand owner of the covered product has agreed to
10 accept responsibility under this chapter; or

11 (iii) If there is no person described in (a)(i) and (ii) of this
12 subsection over whom the state can constitutionally exercise
13 jurisdiction, the producer is the person who imports or distributes
14 the covered product in or into the state.

15 (b) "Producer" does not include:

16 (i) Government agencies, municipalities, or other political
17 subdivisions of the state;

18 (ii) Registered 501(c)(3) charitable organizations and 501(c)(4)
19 social welfare organizations; or

20 (iii) De minimis producers that annually sell, offer for sale,
21 distribute, or import in or into the country for sale in Washington:

22 (A) Less than one ton of a single category of plastic beverage
23 containers, plastic household cleaning and personal care containers,
24 (~~or~~) plastic trash bags, polypropylene tubs, PET thermoform plastic
25 containers, or single-use plastic cups each year; or

26 (B) A single category of a covered product that in aggregate
27 generates less than \$1,000,000 each year in revenue.

28 (20)(a) "Retail establishment" means any person, corporation,
29 partnership, business, facility, vendor, organization, or individual
30 that sells or provides merchandise, goods, or materials directly to a
31 customer.

32 (b) "Retail establishment" includes, but is not limited to, food
33 service businesses, grocery stores, department stores, hardware
34 stores, home delivery services, pharmacies, liquor stores,
35 restaurants, catering trucks, convenience stores, or other retail
36 stores or vendors, including temporary stores or vendors at farmers
37 markets, street fairs, and festivals.

38 (21)(a) "Utensil" means a product designed to be used by a
39 consumer to facilitate the consumption of food or beverages,

1 including knives, forks, spoons, cocktail picks, chopsticks, splash
2 sticks, and stirrers.

3 (b) "Utensil" does not include plates, bowls, cups, and other
4 products used to contain food or beverages.

5 (22) (a) "Polyethylene terephthalate (PET) thermoform plastic
6 container" means a clear or colored plastic container, such as a
7 clamshell, lid, tray, egg carton, trifold, or similar rigid,
8 nonbottle packaging, formed from sheets of extruded PET resin and
9 used to package items for consumers, including:

10 (i) Branded and prepackaged containers that have been filled with
11 products and sealed prior to receipt by the point-of-sale retail
12 location, such as fresh produce, baked goods, nuts, toys,
13 electronics, and tools;

14 (ii) Containers that may be filled at the point-of-sale retail
15 location; and

16 (iii) Unfilled containers that are sold directly.

17 (b) "Polyethylene terephthalate (PET) thermoform plastic
18 container" does not include:

19 (i) Single-use plastic cups;

20 (ii) Refillable containers, such as containers that are
21 sufficiently durable for multiple rotations of their original or
22 similar purpose and are intended to function in a system of reuse;

23 (iii) Rigid plastic containers that are or are used for medical
24 devices, medical products that are required to be sterile,
25 nonprescription and prescription drugs, or dietary supplements as
26 defined in RCW 82.08.0293;

27 (iv) A refillable thermoform plastic container that ordinarily
28 would be returned to the manufacturer to be refilled and resold;

29 (v) A lid or seal of a different material type from plastic; or

30 (vi) PET thermoform containers accompanying a durable good where
31 that durable good model was designed prior to the effective date of
32 this section.

33 (23) "Polypropylene tub" means tubs with wide-mouth containers
34 that have a snap-on lid capable of multiple closures or are sealed
35 with a tamper-proof film, and have a maximum capacity or volume of 50
36 ounces volumetric fill, including:

37 (a) Branded and prepackaged containers that have been filled with
38 products and sealed prior to receipt by the point-of-sale retail
39 location, such as fresh produce, baked goods, nuts, toys,
40 electronics, and tools;

1 (b) Containers that may be filled at the point-of-sale retail
2 location; and

3 (c) Unfilled containers that are sold directly.

4 (24) "Single-use plastic cup" means all nonsealed, beverage
5 -serving cups, except commercially or home compostable cups, expanded
6 polystyrene, or plastic-lined fiber cups (i.e., composite cups).

7 **Sec. 21.** RCW 70A.245.020 and 2021 c 313 s 3 are each amended to
8 read as follows:

9 (1)(a) Beginning January 1, 2023, producers that offer for sale,
10 sell, or distribute in or into Washington:

11 (i) Beverages other than wine in 187 milliliter plastic beverage
12 containers and dairy milk in plastic beverage containers must meet
13 minimum postconsumer recycled content requirements established under
14 subsection (4) of this section; and

15 (ii) Plastic trash bags must meet minimum postconsumer recycled
16 content requirements established under subsection (6) of this
17 section.

18 (b) Beginning January 1, 2025, producers that offer for sale,
19 sell, or distribute in or into Washington household cleaning and
20 personal care products in plastic household cleaning and personal
21 care product containers must meet minimum postconsumer recycled
22 content as required under subsection (5) of this section.

23 (c) Beginning January 1, 2026, producers that offer for sale,
24 sell, or distribute in or into Washington:

25 (i) Polypropylene tubs must meet minimum postconsumer recycled
26 content requirements established under subsection (7) of this
27 section; and

28 (ii) PET thermoform plastic containers must meet minimum
29 postconsumer recycled content requirements established under
30 subsection (8) of this section.

31 (d) Beginning January 1, 2028, producers that offer for sale,
32 sell, or distribute in or into Washington wine in 187 milliliter
33 plastic beverage containers or dairy milk in plastic beverage
34 containers must meet minimum postconsumer recycled content as
35 required under subsection (4) of this section.

36 (e) Beginning January 1, 2029, producers that offer for sale,
37 sell, or distribute in or into Washington single-use plastic cups
38 must meet minimum postconsumer recycled content requirements
39 established under subsection (9) of this section.

1 (f) Beginning January 1, 2031, producers that offer for sale,
2 sell, or distribute in or into Washington durable goods in PET
3 thermoform plastic containers must meet minimum postconsumer recycled
4 content requirements established under subsection (8) of this
5 section.

6 (2) (a) ~~((On))~~ (i) Except as provided in (a)(ii) of this
7 subsection, on or before April 1, 2022, and January 31, 2023, and
8 annually thereafter, a producer that offers for sale, sells, or
9 distributes in or into Washington covered products must register with
10 the department individually or through a third-party representative
11 registering on behalf of a group of producers.

12 (ii) A producer that offers for sale, sells, or distributes in or
13 into Washington single-use plastic cups or polypropylene tubs or PET
14 thermoform plastic containers must register with the department
15 individually or through a third-party representative registering on
16 behalf of a group of producers on or before January 31, 2023.

17 (b) The registration information submitted to the department
18 under this section must include a list of the producers of covered
19 products and the brand names of the covered products represented in
20 the registration submittal. Beginning ~~((April 1))~~ January 31, 2024,
21 for plastic trash bags and plastic beverage containers other than
22 wine in 187 milliliter plastic beverage containers and dairy milk in
23 plastic beverage containers, ~~((April 1))~~ January 31, 2026, for
24 plastic household and personal care product containers, ~~((and April~~
25 1)) January 31, 2027, for polypropylene tubs and PET thermoform
26 plastic containers for consumable goods, January 31, 2029, for wine
27 in 187 milliliter plastic beverage containers and dairy milk, January
28 31, 2030, for single-use plastic cups, and January 31, 2032, for PET
29 thermoform plastic containers used for durable goods, a producer may
30 submit registration information at the same time as the information
31 submitted through the annual reporting required under RCW
32 70A.245.030.

33 (3) (a) By January 31, 2022, ~~((and every January 31st thereafter))~~
34 for covered products defined in RCW 70A.245.010(4)(a) (i), (ii), and
35 (iii), by March 1, 2023, for all covered products defined in RCW
36 70A.245.010(4)(a), and every March 1st thereafter, the department
37 must:

38 (i) Prepare an annual workload analysis for public comment that
39 identifies the annual costs it expects to incur to implement,
40 administer, and enforce this section and RCW 70A.245.030 through

1 70A.245.060 and 70A.245.090 (1), (2), and (4), including rule making,
2 in the next fiscal year for each category of covered products;

3 (ii) Determine a total annual fee payment by producers or their
4 third-party representatives for each category of covered products
5 that is adequate to cover, but not exceed, the workload identified in
6 (a)(i) of this subsection;

7 (iii) Until rules are adopted under (a)(iv) of this subsection,
8 issue a general order to all entities falling within the definition
9 of producer. The department must equitably determine fee amounts for
10 an individual producer or third-party representatives within each
11 category of covered product;

12 (iv) By 2024, adopt rules to equitably determine annual fee
13 payments by producers or their third-party representatives within
14 each category of covered product. Once such rules are adopted, the
15 general order issued under (a)(iii) of this subsection is no longer
16 effective; and

17 (v) Send notice to producers or their third-party representatives
18 of fee amounts due consistent with either the general order issued
19 under (a)(iii) of this subsection or rules adopted under (a)(iv) of
20 this subsection.

21 (b) The department must:

22 (i) Apply any remaining annual payment funds from the current
23 year to the annual payment for the coming year, if the collected
24 annual payment exceeds the department's costs for a given year; and

25 (ii) Increase annual payments for the coming year to cover the
26 department's costs, if the collected annual payment was less than the
27 department's costs for a given year.

28 (c) ~~((By))~~ (i) Except as provided in (c)(ii) of this subsection,
29 by April 1, 2022, and every ((April)) May 1st thereafter, producers
30 or their third-party representative must submit a fee payment as
31 determined by the department under (a) of this subsection.

32 (ii) Producers of single-use plastic cups, polypropylene tubs, or
33 PET thermoform plastic containers, or their third-party
34 representative, must submit a fee payment as determined by the
35 department under (a) of this subsection by May 1, 2023, and every May
36 1st thereafter.

37 (4) A producer of a beverage in a plastic beverage container must
38 meet the following annual minimum postconsumer recycled content
39 percentage on average for the total quantity of plastic beverage

1 containers, by weight, that are sold, offered for sale, or
2 distributed in or into Washington by the producer effective:

3 (a) For beverages except wine in 187 milliliter plastic beverage
4 containers and dairy milk:

5 (i) January 1, 2023, through December 31, 2025: No less than 15
6 percent postconsumer recycled content plastic by weight;

7 (ii) January 1, 2026, through December 31, 2030: No less than 25
8 percent postconsumer recycled content plastic by weight; and

9 (iii) On and after January 1, 2031: No less than 50 percent
10 postconsumer recycled content plastic by weight.

11 (b) For wine in 187 milliliter plastic beverage containers and
12 dairy milk:

13 (i) January 1, 2028, through December 31, 2030: No less than 15
14 percent postconsumer recycled content plastic by weight;

15 (ii) January 1, 2031, through December 31, 2035: No less than 25
16 percent postconsumer recycled content plastic by weight; and

17 (iii) On and after January 1, 2036: No less than 50 percent
18 postconsumer recycled content plastic by weight.

19 (5) A producer of household cleaning and personal care products
20 in plastic containers must meet the following annual minimum
21 postconsumer recycled content percentage on average for the total
22 quantity of plastic containers, by weight, that are sold, offered for
23 sale, or distributed in or into Washington by the producer effective:

24 (a) January 1, 2025, through December 31, 2027: No less than 15
25 percent postconsumer recycled content plastic by weight;

26 (b) January 1, 2028, through December 31, 2030: No less than 25
27 percent postconsumer recycled content plastic by weight; and

28 (c) On and after January 1, 2031: No less than 50 percent
29 postconsumer recycled content plastic by weight.

30 (6) A producer of plastic trash bags must meet the following
31 annual minimum postconsumer recycled content percentage on average
32 for the total quantity of plastic trash bags, by weight, that are
33 sold, offered for sale, or distributed in or into Washington by the
34 producer effective:

35 (a) January 1, 2023, through December 31, 2024: No less than 10
36 percent postconsumer recycled content plastic by weight;

37 (b) January 1, 2025, through December 31, 2026: No less than 15
38 percent postconsumer recycled content plastic by weight; and

39 (c) On and after January 1, 2027: No less than 20 percent
40 postconsumer recycled content plastic by weight.

1 (7) A producer of a polypropylene tub must meet the following
2 annual minimum postconsumer recycled content percentage on average
3 for the total quantity of polypropylene tubs, by weight, that are
4 sold, offered for sale, or distributed in or into Washington by the
5 producer effective:

6 (a) January 1, 2026, through December 31, 2030: No less than 10
7 percent postconsumer recycled content plastic by weight; and

8 (b) On and after January 1, 2031: No less than 30 percent
9 postconsumer recycled content plastic by weight.

10 (8) A producer of a PET thermoform plastic container must meet
11 the following annual minimum postconsumer recycled content percentage
12 on average for the total quantity of PET thermoform plastic
13 containers, by weight, that are sold, offered for sale, or
14 distributed in or into Washington by the producer effective:

15 (a) For packaging for consumable goods:

16 (i) January 1, 2026, through December 31, 2030: No less than 10
17 percent postconsumer recycled content plastic by weight; and

18 (ii) On and after January 1, 2031: No less than 30 percent
19 postconsumer recycled content plastic by weight;

20 (b)(i) Except as provided in (b)(ii) of this subsection, for
21 packaging used for durable goods: On and after January 1, 2031, no
22 less than 30 percent postconsumer recycled content plastic by weight;

23 (ii) Packaging designed to accompany a durable good where that
24 durable good model is designed prior to the effective date of the
25 requirement in (b)(i) of this subsection is exempt.

26 (9) A producer of single-use plastic cups must meet the following
27 annual minimum postconsumer recycled content percentage on average
28 for the total quantity of single-use plastic cups, by weight, that
29 are sold, offered for sale, or distributed in or into Washington by
30 the producer effective:

31 (a) For polypropylene single-use plastic cups:

32 (i) January 1, 2029, through December 31, 2030: No less than 15
33 percent postconsumer recycled content plastic by weight; and

34 (ii) On and after January 1, 2031: No less than 25 percent
35 postconsumer recycled content plastic by weight;

36 (b) For polyethylene terephthalate (PET) and polystyrene single-
37 use plastic cups:

38 (i) January 1, 2029, through December 31, 2030: No less than 20
39 percent postconsumer recycled content plastic by weight; and

1 (ii) On and after January 1, 2031: No less than 30 percent
2 postconsumer recycled content plastic by weight.

3 (10)(a) Beginning January 1, 2024, or when rule making is
4 complete, whichever is sooner, the department may, on an annual basis
5 on January 1st, review and determine for the following year whether
6 to adjust the minimum postconsumer recycled content percentage
7 required for a type of container or product or category of covered
8 products pursuant to subsection (4), (5), ~~((6))~~ (6), (7), (8), or
9 (9) of this section. The department's review may be initiated by the
10 department or at the petition of a producer or a covered product
11 manufacturing industry not more than once annually. When submitting a
12 petition, producers or a producer manufacturing industry must provide
13 necessary information that will allow the department to make a
14 determination under (b) of this subsection.

15 (b) In making a determination pursuant to this subsection, the
16 department must consider, at a minimum, all of the following factors:

17 (i) Changes in market conditions, including supply and demand for
18 postconsumer recycled content plastics, collection rates, and bale
19 availability both domestically and globally;

20 (ii) Recycling rates;

21 (iii) The availability of recycled plastic suitable to meet the
22 minimum postconsumer recycled content requirements pursuant to
23 subsection (4), (5), ~~((6))~~ (6), (7), (8), or (9) of this section,
24 including the availability of high quality recycled plastic, and
25 food-grade recycled plastic from recycling programs;

26 (iv) The capacity of recycling or processing infrastructure;

27 (v) The technical feasibility of achieving the minimum
28 postconsumer recycled content requirements in covered products that
29 are regulated under 21 C.F.R., chapter I, subchapter G, 7 U.S.C. Sec.
30 136, 15 U.S.C. Sec. 1471-1477, 49 C.F.R. Sec. 178.33b, 49 C.F.R. Sec.
31 173, 40 C.F.R. Sec. 152.10, 15 U.S.C. Sec. 1261-1278, 49 U.S.C. 5101
32 et seq., 49 C.F.R. Sec. 178.509, 49 C.F.R. Sec. 179.522, 49 C.F.R.
33 Sec. 178.600-609, and other federal laws; and

34 (vi) The progress made by producers in achieving the goals of
35 this section.

36 (c) Under (a) of this subsection:

37 (i) The department may not adjust the minimum postconsumer
38 recycled content requirements above the minimum postconsumer recycled
39 content percentages for the year under review required pursuant to
40 subsection (4), (5), ~~((6))~~ (6), (7), (8), or (9) of this section.

1 (ii) For plastic household cleaning and personal care product
2 containers, the department may not adjust the minimum postconsumer
3 recycled content requirements above the minimum postconsumer recycled
4 content percentages for the year under review required pursuant to
5 subsection (5) of this section or below a minimum of 10 percent.

6 (iii) For plastic trash bags, the department may not adjust the
7 minimum postconsumer recycled content requirements above the minimum
8 postconsumer recycled content percentages for the year under review
9 required pursuant to subsection (6) of this section or below the
10 minimum percentage required in subsection (6) (a) of this section.

11 (d) A producer or the manufacturing industry for a covered
12 product may appeal a decision by the department to adjust
13 postconsumer recycled content percentages under (a) of this
14 subsection or to temporarily exclude covered products from minimum
15 postconsumer recycled content requirements under subsection ~~((8))~~
16 (11) of this section to the pollution control hearings board within
17 30 days of the department's determination.

18 ~~((8))~~ (11) (a) The department must temporarily exclude from
19 minimum postconsumer recycled content requirements for the upcoming
20 year any types of covered products in plastic containers for which a
21 producer annually demonstrates to the department by December 31st of
22 a given year that ~~((the))~~:

23 (i) The producer cannot achieve the postconsumer recycled content
24 requirements and remain in compliance with applicable rules and
25 regulations adopted by the United States food and drug
26 administration, or any other state or federal law, rule, or
27 regulation; or

28 (ii) The achievement of postconsumer recycled content
29 requirements in the container material is not ~~((technically))~~
30 technologically feasible ~~((in order to comply with health or safety~~
31 requirements of federal law, including the federal laws specified in
32 subsection (7) (b) (v) of this section)).

33 (b) A producer must continue to register and report consistent
34 with the requirements of this chapter for covered products
35 temporarily excluded from minimum postconsumer recycled content
36 requirements under this subsection.

37 ~~((9))~~ (12) A producer that does not achieve the postconsumer
38 recycled content requirements established under this section is
39 subject to penalties established in RCW 70A.245.040.

1 ~~((10))~~ (13) (a) A city, town, county, or municipal corporation
2 may not implement local recycled content requirements for a covered
3 product that is subject to minimum postconsumer recycled content
4 requirements established in this section.

5 (b) A city, town, county, or municipal corporation may establish
6 local purchasing requirements that include recycled content standards
7 that exceed the minimum recycled content requirements established by
8 this chapter for plastic household cleaning and personal care product
9 containers or plastic trash bags purchased by a city, town, or
10 municipal corporation, or its contractor.

11 ~~((11))~~ (14) The department may enter into contracts for the
12 services required to implement this chapter and related duties of the
13 department.

14 ~~((12))~~ (15) In-state distributors, wholesalers, and retailers
15 in possession of covered products manufactured before the date that
16 postconsumer recycled content requirements become effective may
17 exhaust their existing stock through sales to the public.

18 **Sec. 22.** RCW 70A.245.030 and 2021 c 313 s 4 are each amended to
19 read as follows:

20 (1) (a) Except as provided in (b) ~~((and))~~, (c), (d), (e), or (f)
21 of this subsection, beginning April 1, 2024, each producer of covered
22 products, individually or through a third party representing a group
23 of producers, must provide an annual report to the department that
24 includes the amount in pounds of virgin plastic and the amount in
25 pounds of postconsumer recycled content by resin type used for each
26 category of covered products that are sold, offered for sale, or
27 distributed in or into Washington state, including the total
28 postconsumer recycled content resins as a percentage of total weight.

29 (i) The report must be submitted in a format and manner
30 prescribed by the department.

31 (ii) The department may determine that producers of one or more
32 categories of covered products must demonstrate compliance with the
33 postconsumer recycled content requirements established in this
34 section by providing validation documents issued by an established
35 third-party certification entity acceptable to the department,
36 directly or through their third-party representatives, to the
37 department.

38 (iii) A manufacturer may submit national data allocated on a per
39 capita basis for Washington to approximate the information required

1 in this subsection if the producer or third-party representative
2 demonstrates to the department that state level data are not
3 available or feasible to generate.

4 (b) The requirements of (a) of this subsection apply to household
5 cleaning and personal care products in plastic containers beginning
6 April 1, 2026.

7 (c) The requirements of (a) of this subsection apply to
8 polypropylene tubs and PET thermoform plastic containers used for
9 consumable goods beginning April 1, 2027.

10 (d) The requirements of (a) of this subsection apply to wine in
11 187 milliliter plastic beverage containers and dairy milk in plastic
12 beverage containers beginning April 1, 2029.

13 ~~((d))~~ (e) The requirements of (a) of this subsection apply to
14 single-use plastic cups beginning April 1, 2030.

15 (f) The requirements of (a) of this subsection apply to PET
16 thermoform plastic containers used for durable goods beginning April
17 1, 2032.

18 (g) The department must post the information reported under this
19 subsection on its website, except as provided in subsection (2) of
20 this section.

21 (2) A producer that submits information or records to the
22 department under this chapter may request that the information or
23 records be made available only for the confidential use of the
24 department, the director, or the appropriate division of the
25 department. The director of the department must give consideration to
26 the request and if this action is not detrimental to the public
27 interest and is otherwise in accordance with the policies and
28 purposes of chapter 43.21A RCW, the director must grant the request
29 for the information to remain confidential as authorized in
30 RCW 43.21A.160.

31 NEW SECTION. Sec. 23. TRUTH IN LABELING. (1) Beginning January
32 1, 2026, a person may not distribute, sell, or offer to sell,
33 including by means of remote sale, any covered product that makes a
34 deceptive or misleading claim about its recyclability.

35 (a) A covered product that displays a chasing arrows symbol, a
36 chasing arrows symbol surrounding a resin identification code, or any
37 other symbol or statement indicating that it is recyclable is deemed
38 to be deceptive or misleading unless it is designated for collection

1 in a producer responsibility organization plan approved by the
2 department as described in section 7 of this act;

3 (b) A label is not considered a misleading or deceptive claim of
4 recyclability if it is required by another state at the time that the
5 claim is made.

6 (2) At such time as an enforceable federal statutory or
7 regulatory standard is implemented for labeling packaging related to
8 recyclability, within 180 days the department shall review criteria
9 under this chapter with federal standards or requirements and may
10 adopt the federal criteria in lieu of the requirements of this
11 section.

12 NEW SECTION. **Sec. 24.** ROLL CARTS. (1) Beginning January 1,
13 2023, a manufacturer or person may only sell, offer for sale, or
14 distribute for use in Washington plastic collection bins made from at
15 least 25 percent postconsumer recycled content, including at least 10
16 percent derived from curbside recycling programs.

17 (2) A person with an existing municipal contract for plastic
18 collection bins that was in place prior to August 1, 2022, is exempt
19 from this section until the expiration or renewal date of the
20 contract. A new or renewed contract whose terms take effect after
21 August 1, 2022, must be consistent with the requirements of this
22 section. Exempt persons are encouraged to meet the requirements of
23 this section as collection bins are replaced under existing
24 contracts.

25 (3) Manufacturers of plastic collection bins, including persons
26 that sell, offer for sale, distribute, or provide collection bins in
27 Washington must provide written evidence or certification, upon
28 request, to the department or any municipality, retailer, stewardship
29 organization, solid waste collection company, or other purchaser of
30 collection bins showing that their collection bins meet the
31 requirements of this section.

32 (4) For the purposes of this section, "plastic collection bins"
33 include plastic bins, cans, carts, totes, roll carts, or other
34 receptacles used to collect recyclables, compostable materials, or
35 garbage used by solid waste collection services.

36 NEW SECTION. **Sec. 25.** OTHER ASSISTANCE PROGRAMS. Nothing in
37 this chapter impacts an entity's eligibility for any state or local
38 incentive or assistance program to which they are otherwise eligible.

1 NEW SECTION. **Sec. 26.** ACCOUNT. The responsible packaging
2 management account is created in the custody of the state treasury.
3 All receipts received by the department under this chapter must be
4 deposited in the account. Only the director of the department or the
5 director's designee may authorize expenditures from the account. The
6 account is subject to the allotment procedures under chapter 43.88
7 RCW, but an appropriation is not required for expenditures.
8 Expenditures from the account may be used by the department only for
9 implementing, administering, and enforcing the requirements of this
10 chapter.

11 **Sec. 27.** RCW 43.21B.110 and 2021 c 316 s 41 and 2021 c 313 s 16
12 are each reenacted and amended to read as follows:

13 (1) The hearings board shall only have jurisdiction to hear and
14 decide appeals from the following decisions of the department, the
15 director, local conservation districts, the air pollution control
16 boards or authorities as established pursuant to chapter 70A.15 RCW,
17 local health departments, the department of natural resources, the
18 department of fish and wildlife, the parks and recreation commission,
19 and authorized public entities described in chapter 79.100 RCW:

20 (a) Civil penalties imposed pursuant to RCW 18.104.155,
21 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070,
22 70A.515.060, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080,
23 70A.65.200, section 4 of this act, 76.09.170, 77.55.440, 78.44.250,
24 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and
25 90.64.102.

26 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
27 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070,
28 70A.245.020, 70A.65.200, section 4 of this act, 86.16.020, 88.46.070,
29 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

30 (c) Except as provided in RCW 90.03.210(2), the issuance,
31 modification, or termination of any permit, certificate, or license
32 by the department or any air authority in the exercise of its
33 jurisdiction, including the issuance or termination of a waste
34 disposal permit, the denial of an application for a waste disposal
35 permit, the modification of the conditions or the terms of a waste
36 disposal permit, or a decision to approve or deny an application for
37 a solid waste permit exemption under RCW 70A.205.260.

38 (d) Decisions of local health departments regarding the grant or
39 denial of solid waste permits pursuant to chapter 70A.205 RCW.

1 (e) Decisions of local health departments regarding the issuance
2 and enforcement of permits to use or dispose of biosolids under RCW
3 70A.226.090.

4 (f) Decisions of the department regarding waste-derived
5 fertilizer or micronutrient fertilizer under RCW 15.54.820, and
6 decisions of the department regarding waste-derived soil amendments
7 under RCW 70A.205.145.

8 (g) Decisions of local conservation districts related to the
9 denial of approval or denial of certification of a dairy nutrient
10 management plan; conditions contained in a plan; application of any
11 dairy nutrient management practices, standards, methods, and
12 technologies to a particular dairy farm; and failure to adhere to the
13 plan review and approval timelines in RCW 90.64.026.

14 (h) Any other decision by the department or an air authority
15 which pursuant to law must be decided as an adjudicative proceeding
16 under chapter 34.05 RCW.

17 (i) Decisions of the department of natural resources, the
18 department of fish and wildlife, and the department that are
19 reviewable under chapter 76.09 RCW, and the department of natural
20 resources' appeals of county, city, or town objections under RCW
21 76.09.050(7).

22 (j) Forest health hazard orders issued by the commissioner of
23 public lands under RCW 76.06.180.

24 (k) Decisions of the department of fish and wildlife to issue,
25 deny, condition, or modify a hydraulic project approval permit under
26 chapter 77.55 RCW, to issue a stop work order, to issue a notice to
27 comply, to issue a civil penalty, or to issue a notice of intent to
28 disapprove applications.

29 (l) Decisions of the department of natural resources that are
30 reviewable under RCW 78.44.270.

31 (m) Decisions of an authorized public entity under RCW 79.100.010
32 to take temporary possession or custody of a vessel or to contest the
33 amount of reimbursement owed that are reviewable by the hearings
34 board under RCW 79.100.120.

35 (n) Decisions of the department of ecology that are appealable
36 under RCW 70A.245.020 to set recycled minimum postconsumer content
37 for covered products or to temporarily exclude types of covered
38 products in plastic containers from minimum postconsumer recycled
39 content requirements.

1 (2) The following hearings shall not be conducted by the hearings
2 board:

3 (a) Hearings required by law to be conducted by the shorelines
4 hearings board pursuant to chapter 90.58 RCW.

5 (b) Hearings conducted by the department pursuant to RCW
6 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,
7 70A.15.3110, and 90.44.180.

8 (c) Appeals of decisions by the department under RCW 90.03.110
9 and 90.44.220.

10 (d) Hearings conducted by the department to adopt, modify, or
11 repeal rules.

12 (3) Review of rules and regulations adopted by the hearings board
13 shall be subject to review in accordance with the provisions of the
14 administrative procedure act, chapter 34.05 RCW.

15 **Sec. 28.** RCW 43.21B.300 and 2021 c 316 s 42 and 2021 c 313 s 17
16 are each reenacted and amended to read as follows:

17 (1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160,
18 70A.205.280, 70A.300.090, 70A.20.050, 70A.245.040, 70A.245.050,
19 70A.245.070, 70A.245.080, 70A.65.200, section 4 of this act,
20 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and
21 90.64.102 and chapter 70A.355 RCW shall be imposed by a notice in
22 writing, either by certified mail with return receipt requested or by
23 personal service, to the person incurring the penalty from the
24 department or the local air authority, describing the violation with
25 reasonable particularity. For penalties issued by local air
26 authorities, within thirty days after the notice is received, the
27 person incurring the penalty may apply in writing to the authority
28 for the remission or mitigation of the penalty. Upon receipt of the
29 application, the authority may remit or mitigate the penalty upon
30 whatever terms the authority in its discretion deems proper. The
31 authority may ascertain the facts regarding all such applications in
32 such reasonable manner and under such rules as it may deem proper and
33 shall remit or mitigate the penalty only upon a demonstration of
34 extraordinary circumstances such as the presence of information or
35 factors not considered in setting the original penalty.

36 (2) Any penalty imposed under this section may be appealed to the
37 pollution control hearings board in accordance with this chapter if
38 the appeal is filed with the hearings board and served on the
39 department or authority thirty days after the date of receipt by the

1 person penalized of the notice imposing the penalty or thirty days
2 after the date of receipt of the notice of disposition by a local air
3 authority of the application for relief from penalty.

4 (3) A penalty shall become due and payable on the later of:

5 (a) Thirty days after receipt of the notice imposing the penalty;

6 (b) Thirty days after receipt of the notice of disposition by a
7 local air authority on application for relief from penalty, if such
8 an application is made; or

9 (c) Thirty days after receipt of the notice of decision of the
10 hearings board if the penalty is appealed.

11 (4) If the amount of any penalty is not paid to the department
12 within thirty days after it becomes due and payable, the attorney
13 general, upon request of the department, shall bring an action in the
14 name of the state of Washington in the superior court of Thurston
15 county, or of any county in which the violator does business, to
16 recover the penalty. If the amount of the penalty is not paid to the
17 authority within thirty days after it becomes due and payable, the
18 authority may bring an action to recover the penalty in the superior
19 court of the county of the authority's main office or of any county
20 in which the violator does business. In these actions, the procedures
21 and rules of evidence shall be the same as in an ordinary civil
22 action.

23 (5) All penalties recovered shall be paid into the state treasury
24 and credited to the general fund except those penalties imposed
25 pursuant to RCW 18.104.155, which shall be credited to the
26 reclamation account as provided in RCW 18.104.155(7), RCW
27 70A.15.3160, the disposition of which shall be governed by that
28 provision, RCW 70A.245.040 and 70A.245.050, which shall be credited
29 to the recycling enhancement account created in RCW 70A.245.100, RCW
30 70A.300.090, which shall be credited to the model toxics control
31 operating account created in RCW 70A.305.180, RCW 70A.65.200, which
32 shall be credited to the climate investment account created in RCW
33 70A.65.250, RCW 90.56.330, which shall be credited to the coastal
34 protection fund created by RCW 90.48.390, ~~((and))~~ RCW 70A.355.070,
35 which shall be credited to the underground storage tank account
36 created by RCW 70A.355.090, and chapter 70A.--- RCW (the new chapter
37 created in section 39 of this act), which shall be credited to the
38 responsible packaging management account created by section 26 of
39 this act.

1 **Sec. 29.** RCW 70A.205.005 and 2002 c 299 s 3 are each amended to
2 read as follows:

3 The legislature finds:

4 (1) Continuing technological changes in methods of manufacture,
5 packaging, and marketing of consumer products, together with the
6 economic and population growth of this state, the rising affluence of
7 its citizens, and its expanding industrial activity have created new
8 and ever-mounting problems involving disposal of garbage, refuse, and
9 solid waste materials resulting from domestic, agricultural, and
10 industrial activities.

11 (2) Traditional methods of disposing of solid wastes in this
12 state are no longer adequate to meet the ever-increasing problem.
13 Improper methods and practices of handling and disposal of solid
14 wastes pollute our land, air and water resources, blight our
15 countryside, adversely affect land values, and damage the overall
16 quality of our environment.

17 (3) Considerations of natural resource limitations, energy
18 shortages, economics and the environment make necessary the
19 development and implementation of solid waste recovery and/or
20 recycling plans and programs.

21 (4) Waste reduction must become a fundamental strategy of solid
22 waste management. It is therefore necessary to change manufacturing
23 and purchasing practices and waste generation behaviors to reduce the
24 amount of waste that becomes a governmental responsibility.

25 (5) Source separation of waste must become a fundamental strategy
26 of solid waste management. Collection and handling strategies should
27 have, as an ultimate goal, the source separation of all materials
28 with resource value or environmental hazard.

29 (6)(a) It should be the goal of every person and business to
30 minimize their production of wastes and to separate recyclable or
31 hazardous materials from mixed waste.

32 (b) It is the responsibility of state, county, and city
33 governments to provide for a waste management infrastructure to fully
34 implement waste reduction and source separation strategies and to
35 process and dispose of remaining wastes in a manner that is
36 environmentally safe and economically sound. It is further the
37 responsibility of state, county, and city governments to monitor the
38 cost-effectiveness and environmental safety of combusting separated
39 waste, processing mixed municipal solid waste, and recycling
40 programs.

1 (c) It is the responsibility of county and city governments to
2 assume primary responsibility for solid waste management and to
3 develop and implement aggressive and effective waste reduction and
4 source separation strategies.

5 (d) It is the responsibility of state government to ensure that
6 local governments are providing adequate source reduction and
7 separation opportunities and incentives to all, including persons in
8 both rural and urban areas, and nonresidential waste generators such
9 as commercial, industrial, and institutional entities, recognizing
10 the need to provide flexibility to accommodate differing population
11 densities, distances to and availability of recycling markets, and
12 collection and disposal costs in each community; and to provide
13 county and city governments with adequate technical resources to
14 accomplish this responsibility.

15 (e) It is the responsibility of producers to provide for the
16 responsible management of covered products, as those terms are
17 defined in section 2 of this act.

18 (7) Environmental and economic considerations in solving the
19 state's solid waste management problems requires strong consideration
20 by local governments of regional solutions and intergovernmental
21 cooperation.

22 (8) The following priorities for the collection, handling, and
23 management of solid waste are necessary and should be followed in
24 descending order as applicable:

25 (a) Waste reduction;

26 (b) Recycling, with source separation of recyclable materials as
27 the preferred method;

28 (c) Energy recovery, incineration, or landfill of separated
29 waste;

30 (d) Energy recovery, incineration, or landfill of mixed municipal
31 solid wastes.

32 (9) It is the state's goal to achieve a fifty percent recycling
33 rate by 2007.

34 (10) It is the state's goal that programs be established to
35 eliminate residential or commercial yard debris in landfills by 2012
36 in those areas where alternatives to disposal are readily available
37 and effective.

38 (11) Steps should be taken to make recycling at least as
39 affordable and convenient to the ratepayer as mixed waste disposal.

1 (12) It is necessary to compile and maintain adequate data on the
2 types and quantities of solid waste that are being generated and to
3 monitor how the various types of solid waste are being managed.

4 (13) Vehicle batteries should be recycled and the disposal of
5 vehicle batteries into landfills or incinerators should be
6 discontinued.

7 (14) Excessive and nonrecyclable packaging of products should be
8 avoided.

9 (15) Comprehensive education should be conducted throughout the
10 state so that people are informed of the need to reduce, source
11 separate, and recycle solid waste.

12 (16) All governmental entities in the state should set an example
13 by implementing aggressive waste reduction and recycling programs at
14 their workplaces and by purchasing products that are made from
15 recycled materials and are recyclable.

16 (17) To ensure the safe and efficient operations of solid waste
17 disposal facilities, it is necessary for operators and regulators of
18 landfills and incinerators to receive training and certification.

19 (18) It is necessary to provide adequate funding to all levels of
20 government so that successful waste reduction and recycling programs
21 can be implemented.

22 (19) The development of stable and expanding markets for
23 recyclable materials is critical to the long-term success of the
24 state's recycling goals. Market development must be encouraged on a
25 state, regional, and national basis to maximize its effectiveness.
26 The state shall assume primary responsibility for the development of
27 a multifaceted market development program to carry out the purposes
28 of chapter 431, Laws of 1989.

29 (20) There is an imperative need to anticipate, plan for, and
30 accomplish effective storage, control, recovery, and recycling of
31 discarded tires and other problem wastes with the subsequent
32 conservation of resources and energy.

33 **Sec. 30.** RCW 70A.205.010 and 2005 c 394 s 2 are each amended to
34 read as follows:

35 The purpose of this chapter is to establish a comprehensive
36 statewide program for solid waste handling, and solid waste recovery
37 and/or recycling which will prevent land, air, and water pollution
38 and conserve the natural, economic, and energy resources of this
39 state. To this end it is the purpose of this chapter:

1 (1) To assign primary responsibility for adequate solid waste
2 handling to local government, reserving to the state, however, those
3 functions necessary to assure effective programs throughout the
4 state, and reserving to producers responsibility for the management
5 of covered products under chapter 70A.--- RCW (the new chapter
6 created in section 39 of this act);

7 (2) To provide for adequate planning for solid waste handling by
8 local government;

9 (3) To provide for the adoption and enforcement of basic minimum
10 performance standards for solid waste handling, including that all
11 sites where recyclable materials are generated and transported from
12 shall provide a separate container for solid waste;

13 (4) To encourage the development and operation of waste recycling
14 facilities needed to accomplish the management priority of waste
15 recycling, to promote consistency in the requirements for such
16 facilities throughout the state, and to ensure that recyclable
17 materials diverted from the waste stream for recycling are routed to
18 facilities in which recycling occurs;

19 (5) To provide technical and financial assistance to local
20 governments in the planning, development, and conduct of solid waste
21 handling programs;

22 (6) To encourage storage, proper disposal, and recycling of
23 discarded vehicle tires and to stimulate private recycling programs
24 throughout the state; and

25 (7) To encourage the development and operation of waste recycling
26 facilities and activities needed to accomplish the management
27 priority of waste recycling and to promote consistency in the
28 permitting requirements for such facilities and activities throughout
29 the state.

30 It is the intent of the legislature that local governments be
31 encouraged to use the expertise of private industry and to contract
32 with private industry to the fullest extent possible to carry out
33 solid waste recovery and/or recycling programs.

34 **Sec. 31.** RCW 70A.205.115 and 2020 c 20 s 1171 are each amended
35 to read as follows:

36 (1) Each local solid waste advisory committee shall conduct one
37 or more meetings for the purpose of determining how local private
38 recycling and solid waste collection businesses may participate in
39 the development and implementation of programs to collect source

1 separated materials from residences, and to process and market
2 materials collected for recycling. The meetings shall include local
3 private recycling businesses, private solid waste collection
4 companies operating within the jurisdiction, and the local solid
5 waste planning agencies. The meetings shall be held during the
6 development of the waste reduction and recycling element or no later
7 than one year prior to the date that a jurisdiction is required to
8 submit the element under RCW 70A.205.075(2).

9 (2) The meeting requirement under subsection (1) of this section
10 shall apply whenever a city or county develops or amends the waste
11 reduction and recycling element required under this chapter.
12 Jurisdictions having approved waste reduction and recycling elements
13 or having initiated a process for the selection of a service provider
14 as of May 21, 1991, do not have to comply with the requirements of
15 subsection (1) of this section until the next revisions to the waste
16 reduction and recycling element are made or required.

17 (3) After the waste reduction and recycling element is approved
18 by the local legislative authority but before it is submitted to the
19 department for approval, the local solid waste advisory committee
20 shall hold at least one additional meeting to review the element.

21 (4) For the purpose of this section, "private recycling business"
22 means any private for-profit or private not-for-profit business that
23 engages in the processing and marketing of recyclable materials.

24 (5) Beginning January 1, 2026, a jurisdiction shall, at a
25 minimum, incorporate by reference the plans of producer
26 responsibility organizations established in the jurisdiction under
27 chapter 70A.--- RCW (the new chapter created in section 39 of this
28 act) to fulfill this requirement.

29 **Sec. 32.** RCW 70A.205.045 and 2020 c 20 s 1163 are each amended
30 to read as follows:

31 Each county and city comprehensive solid waste management plan
32 shall include the following:

33 (1) A detailed inventory and description of all existing solid
34 waste handling facilities including an inventory of any deficiencies
35 in meeting current solid waste handling needs.

36 (2) The estimated long-range needs for solid waste handling
37 facilities projected twenty years into the future.

1 (3) A program for the orderly development of solid waste handling
2 facilities in a manner consistent with the plans for the entire
3 county which shall:

4 (a) Meet the minimum functional standards for solid waste
5 handling adopted by the department and all laws and regulations
6 relating to air and water pollution, fire prevention, flood control,
7 and protection of public health;

8 (b) Take into account the comprehensive land use plan of each
9 jurisdiction;

10 (c) Contain a six year construction and capital acquisition
11 program for solid waste handling facilities; and

12 (d) Contain a plan for financing both capital costs and
13 operational expenditures of the proposed solid waste management
14 system.

15 (4) A program for surveillance and control.

16 (5) A current inventory and description of solid waste collection
17 needs and operations within each respective jurisdiction which shall
18 include:

19 (a) Any franchise for solid waste collection granted by the
20 utilities and transportation commission in the respective
21 jurisdictions including the name of the holder of the franchise and
22 the address of his or her place of business and the area covered by
23 the franchise;

24 (b) Any city solid waste operation within the county and the
25 boundaries of such operation;

26 (c) The population density of each area serviced by a city
27 operation or by a franchised operation within the respective
28 jurisdictions;

29 (d) The projected solid waste collection needs for the respective
30 jurisdictions for the next six years.

31 (6) A comprehensive waste reduction and recycling element that,
32 in accordance with the priorities established in RCW 70A.205.005,
33 provides programs that (a) reduce the amount of waste generated, (b)
34 provide incentives and mechanisms for source separation, and (c)
35 establish recycling opportunities for the source separated waste.

36 (7) The waste reduction and recycling element shall include the
37 following:

38 (a) Waste reduction strategies, which may include strategies to
39 reduce wasted food and food waste that are designed to achieve the

1 goals established in RCW 70A.205.715(1) and that are consistent with
2 the plan developed in RCW 70A.205.715(3);

3 (b) Source separation strategies, including:

4 (i) Programs for the collection of source separated materials
5 from residences in urban and rural areas, including programs that are
6 the responsibility of producer responsibility organizations in
7 chapter 70A.--- RCW (the new chapter created in section 39 of this
8 act). (~~(In urban areas, these)~~) These programs shall include
9 collection of source separated recyclable materials from single and
10 multiple-family residences, unless the department approves an
11 alternative program, according to the criteria in the planning
12 guidelines. Such criteria shall include: Anticipated recovery rates
13 and levels of public participation, availability of environmentally
14 sound disposal capacity, access to markets for recyclable materials,
15 unreasonable cost impacts on the ratepayer over the six-year planning
16 period, utilization of environmentally sound waste reduction and
17 recycling technologies, and other factors as appropriate. (~~(In rural~~
18 ~~areas, these)~~) These programs shall also include but not be limited
19 to drop-off boxes, buy-back centers, or a combination of both, at
20 each solid waste transfer, processing, or disposal site, or at
21 locations convenient to the residents of the county. The drop-off
22 boxes and buy-back centers may be owned or operated by public,
23 nonprofit, or private persons. Beginning January 1, 2026, a
24 jurisdiction may incorporate by reference the plans of producer
25 responsibility organizations established in the jurisdiction under
26 chapter 70A.--- RCW (the new chapter created in section 39 of this
27 act) to fulfill this requirement;

28 (ii) Programs to monitor the collection of source separated waste
29 at nonresidential sites where there is sufficient density to sustain
30 a program;

31 (iii) Programs to collect yard waste and food waste, if the
32 county or city submitting the plan finds that there are adequate
33 markets or capacity for composted yard waste and food waste within or
34 near the service area to consume the majority of the material
35 collected; and

36 (iv) Programs to educate and promote the concepts of waste
37 reduction and recycling;

38 (c) Recycling strategies, including a description of markets for
39 recyclables, a review of waste generation trends, a description of
40 waste composition, a discussion and description of existing programs

1 and any additional programs needed to assist public and private
2 sector recycling, and an implementation schedule for the designation
3 of specific materials to be collected for recycling, and for the
4 provision of recycling collection services;

5 (d) Other information the county or city submitting the plan
6 determines is necessary.

7 (8) An assessment of the plan's impact on the costs of solid
8 waste collection. The assessment shall be prepared in conformance
9 with guidelines established by the utilities and transportation
10 commission. The commission shall cooperate with the Washington state
11 association of counties and the association of Washington cities in
12 establishing such guidelines.

13 (9) A review of potential areas that meet the criteria as
14 outlined in RCW 70A.205.110.

15 (10) A contamination reduction and outreach plan. The
16 contamination reduction and outreach plan must address reducing
17 contamination in recycling. Except for counties with a population of
18 twenty-five thousand or fewer, by July 1, 2021, a contamination
19 reduction and outreach plan must be included in each solid waste
20 management plan by a plan amendment or included when revising or
21 updating a solid waste management plan developed under this chapter.
22 Jurisdictions may adopt the state's contamination reduction and
23 outreach plan as developed under RCW 70A.205.070 in lieu of creating
24 their own plan. Beginning January 1, 2026, a jurisdiction must
25 incorporate by reference the plans of producer responsibility
26 organizations established in the jurisdiction under chapter 70A.---
27 RCW (the new chapter created in section 39 of this act) in lieu of
28 creating their own plan. A recycling contamination reduction and
29 outreach plan must include the following:

30 (a) A list of actions for reducing contamination in recycling
31 programs for single-family and multiple-family residences, commercial
32 locations, and drop boxes depending on the jurisdictions system
33 components;

34 (b) A list of key contaminants identified by the jurisdiction or
35 identified by the department;

36 (c) A discussion of problem contaminants and the contaminants'
37 impact on the collection system;

38 (d) An analysis of the costs and other impacts associated with
39 contaminants to the recycling system; and

1 (e) An implementation schedule and details of how outreach is to
2 be conducted. Contamination reduction education methods may include
3 sharing community-wide messaging through newsletters, articles,
4 mailers, social media, websites, or community events, informing
5 recycling drop box customers about contamination, and improving
6 signage.

7 **Sec. 33.** RCW 70A.205.070 and 2020 c 20 s 1166 are each amended
8 to read as follows:

9 (1) The department or the commission, as appropriate, shall
10 provide to counties and cities technical assistance including, but
11 not limited to, planning guidelines, in the preparation, review, and
12 revision of solid waste management plans required by this chapter.
13 Guidelines prepared under this section shall be consistent with the
14 provisions of this chapter. Guidelines for the preparation of the
15 waste reduction and recycling element of the comprehensive solid
16 waste management plan shall be completed by the department by March
17 15, 1990. These guidelines shall provide recommendations to local
18 government on materials to be considered for designation as
19 recyclable materials. The state solid waste management plan prepared
20 pursuant to RCW 70A.205.210 shall be consistent with these
21 guidelines.

22 (2) The department shall be responsible for development and
23 implementation of a comprehensive statewide public information
24 program designed to encourage waste reduction, source separation, and
25 recycling by the public. The department shall operate a toll-free
26 hotline to provide the public information on waste reduction and
27 recycling.

28 (3) The department shall provide technical assistance to local
29 governments in the development and dissemination of informational
30 materials and related activities to assure recognition of unique
31 local waste reduction and recycling programs.

32 (4) (a) The department must create and implement a statewide
33 recycling contamination reduction and outreach plan based on best
34 management practices for recycling, developed with stakeholder input
35 by July 1, 2020. Jurisdictions may use the statewide plan in lieu of
36 developing their own plan. Beginning January 1, 2026, a jurisdiction
37 must incorporate by reference the plans of producer responsibility
38 organizations established in the jurisdiction under chapter 70A.---

1 RCW (the new chapter created in section 39 of this act) in lieu of
2 creating their own plan.

3 (b) The department must provide technical assistance and create
4 guidance to help local jurisdictions determine the extent of
5 contamination in their regional recycling and to develop
6 contamination reduction and outreach plans. Contamination means any
7 material not included on the local jurisdiction's acceptance list.

8 (c) Contamination reduction education methods may include sharing
9 community-wide messaging through newsletters, articles, mailers,
10 social media, websites, or community events, informing recycling drop
11 box customers about contamination, and improving signage.

12 (d) The department must cite the sources of information that it
13 relied upon, including any peer-reviewed science, in the development
14 of the best management practices for recycling under (a) of this
15 subsection and the guidance developed under (b) of this subsection.

16 (5) Local governments shall make all materials and information
17 developed with the assistance grants provided under RCW 70A.205.080
18 available to the department for potential use in other areas of the
19 state.

20 **Sec. 34.** RCW 81.77.030 and 2020 c 20 s 1467 are each amended to
21 read as follows:

22 (1) The commission shall supervise and regulate every solid waste
23 collection company in this state(~~(1)~~):
24 ~~(1)~~);

25 (a) By fixing and altering its rates, charges, classifications,
26 rules and regulations;

27 ~~((2))~~ (b) By regulating the accounts, service, and safety of
28 operations;

29 ~~((3))~~ (c) By requiring the filing of annual and other reports
30 and data;

31 ~~((4))~~ (d) By supervising and regulating such persons or
32 companies in all other matters affecting the relationship between
33 them and the public which they serve;

34 ~~((5))~~ (e) By requiring compliance with local solid waste
35 management plans and related implementation ordinances;

36 ~~((6))~~ (f) By reviewing producer responsibility organization
37 reimbursement of regulated service providers and reviewing the
38 financial information of private recycling businesses, consistent
39 with section 13 of this act;

1 (g) By requiring certificate holders under this chapter (~~81.77~~
2 RCW) to use rate structures and billing systems consistent with the
3 solid waste management priorities set forth under RCW 70A.205.005 and
4 the minimum levels of solid waste collection and recycling services
5 pursuant to local comprehensive solid waste management plans and with
6 implementation of services designated by a producer responsibility
7 organization in an approved plan to meet the requirements of chapter
8 70A.--- RCW (the new chapter created in section 39 of this act). The
9 commission may order consolidated billing and provide for reasonable
10 and necessary expenses to be paid to the administering company if
11 more than one certificate is granted in an area.

12 (2) The commission, on complaint made on its own motion or by an
13 aggrieved party, at any time, after providing the holder of any
14 certificate with notice and an opportunity for a hearing at which it
15 shall be proven that the holder has willfully violated or refused to
16 observe any of the commission's orders, rules, or regulations, or has
17 failed to operate as a solid waste collection company for a period of
18 at least one year preceding the filing of the complaint, may suspend,
19 revoke, alter, or amend any certificate issued under the provisions
20 of this chapter.

21 **Sec. 35.** RCW 81.77.040 and 2020 c 20 s 1468 are each amended to
22 read as follows:

23 A solid waste collection company shall not operate for the
24 hauling of solid waste for compensation without first having obtained
25 from the commission a certificate declaring that public convenience
26 and necessity require such operation. Operating for the hauling of
27 solid waste for compensation includes advertising, soliciting,
28 offering, or entering into an agreement to provide that service. To
29 operate a solid waste collection company in the unincorporated areas
30 of a county, the company must comply with the solid waste management
31 plan prepared under chapter 70A.205 RCW in the company's franchise
32 area and, if applicable, the service standards established in an
33 approved producer responsibility organization plan to meet the
34 requirements of chapter 70A.--- RCW (the new chapter created in
35 section 39 of this act).

36 Issuance of the certificate of necessity must be determined on,
37 but not limited to, the following factors: The present service and
38 the cost thereof for the contemplated area to be served; an estimate
39 of the cost of the facilities to be utilized in the plant for solid

1 waste collection and disposal, set out in an affidavit or
2 declaration; a statement of the assets on hand of the person, firm,
3 association, or corporation that will be expended on the purported
4 plant for solid waste collection and disposal, set out in an
5 affidavit or declaration; a statement of prior experience, if any, in
6 such field by the petitioner, set out in an affidavit or declaration;
7 and sentiment in the community contemplated to be served as to the
8 necessity for such a service.

9 When an applicant requests a certificate to operate in a
10 territory already served by a certificate holder under this chapter,
11 the commission may, after notice and an opportunity for a hearing,
12 issue the certificate only if the existing solid waste collection
13 company or companies serving the territory will not provide service
14 to the satisfaction of the commission or if the existing solid waste
15 collection company does not object.

16 In all other cases, the commission may, with or without hearing,
17 issue certificates, or for good cause shown refuse to issue them, or
18 issue them for the partial exercise only of the privilege sought, and
19 may attach to the exercise of the rights granted such terms and
20 conditions as, in its judgment, the public convenience and necessity
21 may require.

22 Any right, privilege, certificate held, owned, or obtained by a
23 solid waste collection company may be sold, assigned, leased,
24 transferred, or inherited as other property, only if authorized by
25 the commission.

26 For purposes of issuing certificates under this chapter, the
27 commission may adopt categories of solid wastes as follows: Garbage,
28 refuse, recyclable materials, and demolition debris. A certificate
29 may be issued for one or more categories of solid waste. Certificates
30 issued on or before July 23, 1989, shall not be expanded or
31 restricted by operation of this chapter.

32 **Sec. 36.** RCW 81.77.160 and 1997 c 434 s 1 are each amended to
33 read as follows:

34 (1) The commission, in fixing and altering collection rates
35 charged by every solid waste collection company under this section,
36 shall include in the base for the collection rates:

37 (a) All charges for the disposal of solid waste at the facility
38 or facilities designated by a local jurisdiction under a local
39 comprehensive solid waste management plan or ordinance; and

1 (b) All known and measurable costs related to implementation of
2 the approved county or city comprehensive solid waste management plan
3 or to implementation of services designated by a producer
4 responsibility organization in an approved plan to meet the
5 requirements of chapter 70A.--- RCW (the new chapter created in
6 section 39 of this act).

7 (2) If a solid waste collection company files a tariff to recover
8 the costs specified under this section, and the commission suspends
9 the tariff, the portion of the tariff covering costs specified in
10 this section shall be placed in effect by the commission at the
11 request of the company on an interim basis as of the originally filed
12 effective date, subject to refund, pending the commission's final
13 order. The commission may adopt rules to implement this section.

14 (3) This section applies to a solid waste collection company that
15 has an affiliated interest under chapter 81.16 RCW with a facility,
16 if the total cost of disposal, including waste transfer, transport,
17 and disposal charges, at the facility is equal to or lower than any
18 other reasonable and currently available option.

19 **Sec. 37.** RCW 81.77.185 and 2010 c 154 s 3 are each amended to
20 read as follows:

21 (1) The commission shall allow solid waste collection companies
22 collecting recyclable materials other than covered products collected
23 under an approved plan in chapter 70A.--- RCW (the new chapter
24 created in section 39 of this act) to retain up to fifty percent of
25 the revenue paid to the companies for the material if the companies
26 submit a plan to the commission that is certified by the appropriate
27 local government authority as being consistent with the local
28 government solid waste plan and that demonstrates how the revenues
29 will be used to increase recycling. The remaining revenue shall be
30 passed to residential customers.

31 (2) By December 2, 2005, the commission shall provide a report to
32 the legislature that evaluates:

33 (a) The effectiveness of revenue sharing as an incentive to
34 increase recycling in the state; and

35 (b) The effect of revenue sharing on costs to customers.

36 NEW SECTION. **Sec. 38.** SEVERABILITY CLAUSE. If any provision of
37 this act or its application to any person or circumstance is held

1 invalid, the remainder of the act or the application of the provision
2 to other persons or circumstances is not affected.

3 NEW SECTION. **Sec. 39.** CODIFICATION DIRECTIVE. Sections 1
4 through 19 and 23 through 26 of this act constitute a new chapter in
5 Title 70A RCW.

--- END ---