
SUBSTITUTE SENATE BILL 5697

State of Washington

67th Legislature

2022 Regular Session

By Senate Environment, Energy & Technology (originally sponsored by Senators Das, Rolfes, Kuderer, Lovelett, Lovick, Nguyen, Pedersen, Saldaña, and Stanford)

READ FIRST TIME 02/03/22.

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.205.045, 81.77.030, 81.77.040,
4 81.77.160, and 81.77.185; reenacting and amending RCW 43.21B.110 and
5 43.21B.300; adding a new chapter to Title 70A RCW; and prescribing
6 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 finds that many residents, particularly those
12 who live in rural areas and in multifamily residences, do not have
13 access to convenient or affordable curbside recycling, and must rely
14 on taking recyclables to drop box locations, and that extended
15 producer responsibility programs could make curbside recycling
16 available and affordable for most people in the state.

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

25 (6) In addition, the legislature finds extended producer
26 responsibility policies designed to cover all material types
27 collected through the state's existing recycling system offers the
28 potential for greater economies of scale and operational efficiencies
29 than could be achieved under a policy applied only to a subset of
30 materials collected through that system.

31 (7) It is the intent of the legislature that extended producer
32 responsibility programs, including targets, are implemented by and
33 for producers of consumer packaging and paper products in a manner
34 that involves producers from design concept to end-of-life
35 management, and incentivizes innovation and research to minimize
36 environmental impacts of the packaging and paper products.

37 (8) It is also intended that these programs be responsibly
38 managed, so that covered products are handled from the point of
39 collection through the final destination in a way that benefits the

1 environment and minimizes risks to public health and worker health
2 and safety.

3 (9) Finally, it is further the intent of the legislature that,
4 through design and innovation, industry shall reduce the use of
5 consumer packaging and paper products, increase the use of
6 postconsumer recycled content and make all packaging reusable,
7 recyclable, or compostable. The legislature intends that the policy
8 of the state is to ensure that by 2040 an overall recycling and reuse
9 rate of 90 percent is achieved for consumer packaging and paper
10 products.

11 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this
12 section apply throughout this chapter unless the context clearly
13 requires otherwise.

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

17 (2) "Brand" means a name, symbol, word, or mark that identifies a
18 product and attributes the product and its components, including
19 packaging, to the brand owner of the product as the producer.

20 (3) "Brand owner" means a person who owns or licenses a brand or
21 who otherwise has rights to market a product under the brand, whether
22 or not the brand trademark is registered.

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

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

31 (6) "Contamination" means:

32 (a) The presence of materials in a given collected material
33 stream that are not on the list of materials designated for
34 collection in that material stream; or

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

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

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

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

6 (10) "Final disposition" means the point at which a covered
7 product:

8 (a) Becomes a reused material;

9 (b) Becomes a recycled material; or

10 (c) Is delivered to a disposal facility.

11 (11) "Flexible plastic" means any covered product made of
12 polymers that is flexible in form, including films and multilayer
13 laminates.

14 (12) "Glass" means a covered product made of soda lime glass.

15 (13) "Government agency" means any:

16 (a) County, city, town, or other local government agency,
17 including any municipal corporation, quasi-municipal corporation, or
18 special purpose district, or any office, department, division,
19 bureau, board, commission, or agency thereof, or other local public
20 agency;

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

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

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

27 (14) "Material category" means a group of covered products
28 defined by the producer responsibility organization that have similar
29 properties such as chemical composition, shape, or other
30 characteristics including, but not limited to:

31 (a) Plastic beverage containers;

32 (b) Rigid plastic (excluding plastic beverage containers);

33 (c) Flexible plastic;

34 (d) Paper;

35 (e) Aluminum;

36 (f) Steel; and

37 (g) Glass.

38 (15)(a) "Packaging" means a material, substance, or object that
39 is:

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

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

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

5 (iv) Supplied at the point of sale to facilitate the delivery of
6 the product; or

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

11 (b) "Packaging" does not include:

12 (i) Materials intended to be used for the long-term storage or
13 protection of a durable product, that is intended to transport,
14 protect, or store the product on an ongoing basis and that can be
15 expected to be usable for that purpose for a period of at least five
16 years; and

17 (ii) Materials regulated by the federal insecticide, fungicide,
18 and rodenticide act, 7 U.S.C. Sec. 136 et seq.

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

23 (17) "Paper product" means paper sold and supplied including, but
24 not limited to, flyers, brochures, booklets, catalogs, newspapers,
25 magazines, copy paper, printing paper, and all other paper materials
26 except for: (a) Bound books; and (b) paper products that, by their
27 use, could become unsafe or unsanitary to handle.

28 (18) "Plan" means description of the approach and activities
29 developed by a producer responsibility organization to fulfill the
30 requirements and to carry out the responsibilities of producers under
31 this chapter.

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

1 (20) (a) "Producer" means the following person responsible for
2 compliance with requirements under this chapter for a covered product
3 sold, offered for sale, or distributed in or into this state:

4 (i) For items sold in packaging at a physical retail location in
5 this state:

6 (A) If the item is sold in packaging under the manufacturer's own
7 brand or is sold in packaging that lacks identification of a brand,
8 the producer of the packaging is the person that manufactures the
9 packaged item;

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

16 (C) If there is no person described in (a) (i) (A) or (B) of this
17 subsection within the United States, the producer of the packaging is
18 the person who imports the packaged item into the United States for
19 use in a commercial enterprise that sells, offers for sale, or
20 distributes the item in this state.

21 (ii) For items sold or distributed in packaging in or into this
22 state via remote sale or distribution:

23 (A) The producer of packaging used to directly protect or contain
24 the item is the same as the producer for purposes of (a) (i) of this
25 subsection.

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

28 (iii) For all other packaging that is a covered product, the
29 producer of the packaging is the person that first distributes the
30 packaged item in or into this state.

31 (iv) For paper products that are magazines, newspapers, catalogs,
32 telephone directories, or similar publications, the producer is the
33 publisher.

34 (v) For paper products not described in (a) (iv) of this
35 subsection, the producer is:

36 (A) The person that manufactures the paper product under the
37 manufacturer's own brand;

38 (B) If the paper product is manufactured by a person other than
39 the brand owner, the producer of the paper product is the person that
40 is the owner or licensee of a brand or trademark under which the

1 paper product is used in a commercial enterprise, sold, offered for
2 sale, or distributed in or into this state, whether or not the
3 trademark is registered in this state; or

4 (C) If there is no person described in (a)(v)(A) or (B) of this
5 subsection within the United States, the producer of the paper
6 product is the person that imports the paper product into the United
7 States for use in a commercial enterprise that sells, offers for
8 sale, or distributes the item in this state.

9 (b) "Producer" does not include:

10 (i) Government agencies, municipalities, or other political
11 subdivisions of the state;

12 (ii) Registered 501(c)(3) charitable organizations and 501(c)(4)
13 social welfare organizations; or

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

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

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

20 (21) "Producer responsibility organization" means:

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

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

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

31 (22) "Program" means the activities conducted to implement an
32 approved producer responsibility organization plan.

33 (23)(a) "Public place" is an indoor or outdoor location open to
34 and generally used by the public and to which the public is permitted
35 to have unrestricted access including, but not limited to, streets,
36 sidewalks, plazas, town squares, public parks, beaches, forests, or
37 other public land open for recreation or other uses, and
38 transportation facilities such as bus and train stations, airports,
39 and ferry terminals.

1 (b) "Public place" does not include a retail establishment or
2 industrial, commercial, or privately owned property.

3 (24) "Recyclable" means a covered product that is regularly
4 collected, separated, and reprocessed into a recycled material, and
5 that does not contain harmful chemical, physical, biological, or
6 radiological substances that will pose a threat to human health or
7 the environment for its intended or likely manner of use.

8 (25)(a) "Recycled material" means material derived from covered
9 products that is reprocessed into products or delivered as feedstocks
10 or commodities for use in the production of new products whether for
11 the original or another purpose.

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

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

20 (27) "Retail establishment" includes any person, corporation,
21 partnership, business, facility, vendor, organization, or individual
22 that sells or provides merchandise, goods, or materials directly to a
23 customer.

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

30 (29) "Reused material" means material that is collected after use
31 and reused for its original or similar purpose or function.

32 (30) "Rigid plastic" means any covered product made of polymers
33 that is rigid or semirigid in form, including foams.

34 (31) "Socially just management" means practices that:

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

38 (b) Prevent or, if not preventable, reduce environmental harms or
39 risks; and

1 (c) Prevent or, if not preventable, mitigate impacts to
2 overburdened communities or vulnerable populations as defined in RCW
3 70A.02.010.

4 (32) "Steel" means any covered product made of a ferrous metal
5 substance.

6 NEW SECTION. **Sec. 3.** PRODUCER RESPONSIBILITY ORGANIZATION
7 DUTIES. (1)(a) Beginning January 15, 2023, each producer that offers
8 for sale, sells, or distributes in or into Washington covered
9 products must join a producer responsibility organization that is
10 registered with the department. Producers that have not joined a
11 producer responsibility organization may not sell or supply covered
12 products in or into Washington.

13 (b) A producer is not required to join a producer responsibility
14 organization for any covered product if another person has joined a
15 producer responsibility organization and registered as the producer
16 responsible for that covered product under this chapter.

17 (2) A producer responsibility organization that meets the
18 definition under section 2(21) (a) or (b) of this act may not include
19 on its board of directors, or otherwise be governed by,
20 representatives or affiliates of any public or private entities that
21 submit bids to perform work for the producer responsibility
22 organization or that contract with the producer responsibility
23 organization.

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

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

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

34 (b) Until a producer responsibility organization begins to submit
35 annual reports, as specified under section 18 of this act, the
36 following data for the prior calendar year: The weight, by material
37 category, of covered products supplied into the state to consumers,
38 accompanied by a description of how the producer responsibility
39 organization has distinguished and apportioned the quantities of

1 packaging and paper products sold or supplied to consumers, which are
2 considered covered products under this chapter, from quantities of
3 packaging and paper products sold or supplied for other uses that are
4 not considered covered products under this chapter. A producer
5 responsibility organization may rely on member reporting for this
6 description;

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

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

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

17 (b) Statewide needs assessment established in section 5 of this
18 act; and

19 (c) Support and facilitation of the renew advisory council
20 created in section 20 of this act.

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

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

28 (i) Implement its plan as approved by the department by July 1,
29 2026, or within six months of plan approval, whichever is later; and

30 (ii) Submit an annual report for the prior calendar year to the
31 department consistent with section 18 of this act by July 1, 2027,
32 and each July 1st thereafter.

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

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

38 (ii) Submit a plan to the department for approval, informed by a
39 stakeholder consultation process and consistent with the requirements
40 of this chapter, within one year of registration;

1 (iii) Implement its plan as approved by the department within six
2 months of approval; and

3 (iv) Submit an annual report for the prior calendar year to the
4 department consistent with section 18 of this act by July 1st,
5 beginning the first year after plan implementation.

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

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

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

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

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

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

29 (A) Statewide needs assessment established in section 5 of this
30 act;

31 (B) Reuse and recycling rate targets study established in section
32 9 of this act; and

33 (C) Support and facilitation of the renew advisory council
34 created in section 20 of this act;

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

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

5 (v) Send notice to producer responsibility organizations of fee
6 amounts due consistent with either the general order issued under
7 (a)(iii) of this subsection or rules adopted under (a)(iv) of this
8 subsection.

9 (b) The department must:

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

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

18 (3) The department must review proposed reuse and recycling rate
19 targets to be achieved by the ninth calendar year from the effective
20 date of this section submitted by producer responsibility
21 organizations as required in section 9 of this act. The department
22 must:

23 (a) Make proposed reuse and recycling rate targets available for
24 public review and comment for at least 30 days;

25 (b) Review proposed reuse and recycling rate targets within 90
26 days of receipt of a complete submission;

27 (c) Make a determination as to whether or not to approve proposed
28 reuse and recycling rate targets and notify the producer
29 responsibility organization of the:

30 (i) Determination of approval if the submission meets the
31 requirements of this chapter, taking into consideration comments
32 received under (a) of this subsection; or

33 (ii) Reasons for not approving a submission of proposed targets.
34 The producer responsibility organization must submit new or revised
35 proposed targets within 30 days after receipt of the letter of
36 disapproval.

37 (4) (a) The department must review new, updated, and revised plans
38 submitted by producer responsibility organizations as required in
39 section 19 of this act. The department must:

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

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

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

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

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

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

17 (5) The department must review annual reports submitted by
18 producer responsibility organizations as required in section 18 of
19 this act. The department must:

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

22 (b) Review within 120 days of receipt of a complete annual
23 report;

24 (c) Make a determination as to whether or not an annual report
25 meets the requirements of section 18 of this act and notify the
26 producer responsibility organization of the:

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

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

31 (d) Notify a producer responsibility organization if the annual
32 report demonstrates that the program and activities to implement the
33 plan fail to achieve the reuse and recycling targets approved by the
34 department or otherwise fail to achieve significant requirements
35 under this chapter.

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

38 (a) Establishing the requirements an organization other than a
39 nonprofit organization that qualifies for a tax exemption under 26
40 U.S.C. Sec. 501(c)(3) of the federal internal revenue code must meet

1 to submit a plan and implement a program as a producer responsibility
2 organization;

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

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

10 (d) Establishing elements to be included as annual reporting
11 requirements, in section 18 of this act, necessary to determine the
12 program's compliance with the requirements of this chapter including,
13 but not limited to, any reused or reusable covered products
14 determined to be necessary to be reported by number of units;

15 (e) Establishing third-party audit and verification requirements;
16 or

17 (f) Establishing processes for new, updated, and revised plan
18 approvals as required in section 19 of this act.

19 (7)(a) Beginning January 1, 2028, and no more frequently than
20 every five years, the department may by rule require producer
21 responsibility organizations to fund activities to make convenient
22 collection services available for recycling of covered products
23 designated for collection from additional locations or entities
24 determined to be significant sources of covered product waste
25 including, but not limited to, public places and official gatherings.

26 (8) The department must maintain a public website that:

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

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

32 (9) The department must conduct the statewide needs assessment
33 established under section 5 of this act.

34 (10) The department must conduct the reuse and recycling rate
35 targets study established under section 9 of this act.

36 (11)(a) The department must establish the renew advisory council
37 under section 20 of this act.

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

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

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

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

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

12 (c) Penalties levied under this subsection must be deposited in
13 the responsible packaging management account created in section 28 of
14 this act.

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

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

19 (a) The final scope of the statewide needs assessment must be
20 determined based on comments and recommendations from the renew
21 advisory council established in section 20 of this act, from the
22 utilities and transportation commission, and from any producer
23 responsibility organization that is registered with the department by
24 January 15, 2023; and

25 (b) The utilities and transportation commission, renew advisory
26 council, and registered producer responsibility organizations must
27 have the opportunity to review and comment on a draft statewide needs
28 assessment prior to its completion.

29 (2) The statewide needs assessment must be:

30 (a) Carried out by a third-party consultant selected by the
31 department;

32 (b) Funded through payments collected from producer
33 responsibility organizations;

34 (c) Informed by the findings and recommendations of the reuse and
35 recycling rate targets study established in section 9 of this act and
36 the targets submitted by producer responsibility organizations and
37 approved by the department; and

38 (d) Accepted from the selected consultant as complete by the
39 department.

1 (3) The statewide needs assessment must:

2 (a) Evaluate the capacity, costs, gaps, and needs for the
3 following factors:

4 (i) Availability and types of recycling services for covered
5 products relative to the convenience standards specified in section
6 11 of this act and to additional potential service methods
7 recommended by producer responsibility organizations during the study
8 scoping process;

9 (ii) Education and outreach activities relative to the standards
10 specified in section 17 of this act;

11 (iii) Availability and performance of collection, transport, and
12 processing capacity and infrastructure relative to the management
13 standards specified in section 8 of this act and the approved reuse
14 and recycling rate targets submitted by producer responsibility
15 organizations, including consideration of material quality and
16 contamination;

17 (iv) Necessary capital investments to existing reuse and
18 recycling infrastructure; and

19 (v) Infrastructure or other factors necessary to enable reuse of
20 covered products or the recycling of covered products not currently
21 recycled in the residential recycling system;

22 (b) Compile information related to actual costs incurred by
23 government agencies for curbside collection services, drop-off
24 collection services, and other information relevant to the funding
25 requirements for producer responsibility organizations in accordance
26 with section 10 of this act, including costs for various service
27 methods recommended by producer responsibility organizations during
28 the study scoping process;

29 (c) Identify cost factors and other variables to be considered in
30 the development of base cost formulas for establishing per unit
31 reimbursement rates to government agencies for curbside collection
32 services delivered in accordance with this chapter. Cost factors and
33 variables to be considered in the base cost formulas include:

34 (i) Population size and density of a local jurisdiction;

35 (ii) Types of households serviced and collection method used;

36 (iii) Distance from a local jurisdiction to the nearest recycling
37 facility;

38 (iv) Whether a jurisdiction pays for transportation and sorting
39 of collected materials and whether it receives a commodity value from
40 processed materials;

1 (v) Geographic location or other variables contributing to
2 regional differences in costs;

3 (vi) Cost increases over time; and

4 (vii) Any other factors as determined to be necessary by the
5 department, with input from the producer responsibility organization,
6 the renew advisory council, and the utilities and transportation
7 commission;

8 (d) Identify cost factors and other variables to be considered in
9 the development of reimbursement rates to government agencies for any
10 services other than curbside collection that may be included in
11 producer responsibility organization plans to be carried out by
12 government agencies;

13 (e) Identify issues to be considered in the development of a
14 service agreement template outlining terms and conditions for
15 reimbursement to government agencies for services delivered in
16 accordance with the requirements of this chapter;

17 (f) Compile relevant information to be considered in the
18 development of criteria to determine whether a covered product is
19 recyclable, reusable, or compostable, such as whether covered product
20 materials: Are or may be collected, separated, and processed in
21 sufficient quantity and quality into a marketable feedstock that can
22 be used in the production of new products; or are designed in a way
23 that is problematic for reuse, recycling, or composting;

24 (g) Evaluate how the state's recycling system can be managed in a
25 socially just manner for the purpose of informing how a producer
26 responsibility organization implementing a plan can support this
27 objective as it relates to activities required under this chapter.
28 The assessment should:

29 (i) Include meaningful consultation with overburdened communities
30 and vulnerable populations;

31 (ii) Determine conditions and make recommendations, including, at
32 minimum:

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

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

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

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

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

6 (F) Recommendations for improving socially just management
7 practices and outcomes in the state's recycling system, including
8 considerations for how a producer responsibility organization
9 implementing a plan can support this objective as it relates to
10 activities required under this chapter;

11 (h) Evaluate the extent to which covered products contribute to
12 litter and marine debris for the purpose of informing how a producer
13 responsibility organization implementing a plan can support litter
14 and marine debris prevention as it relates to activities required
15 under this chapter. The assessment should draw on available data,
16 assess gaps, and identify strategies for improving prevention and
17 cleanup of litter and marine debris from covered products;

18 (i) Compile information from available data sources on the
19 presence of toxic substances in covered products and their potential
20 impacts on reuse, recycling, and composting systems. The information
21 compiled is intended to inform the development of ecomodulation
22 factors by a producer responsibility organization that incentivize
23 the reduction of toxic substances that have potentially negative
24 impacts when covered products are managed through reuse, recycling,
25 and composting systems.

26 (4)(a) At the request and agreement of the renew advisory
27 council, the utilities and transportation commission, and registered
28 producer responsibility organizations, the department may update the
29 statewide needs assessment to inform the development of producer
30 responsibility organization plans, including updates to base cost
31 formulas to be used for establishing reimbursement rates to
32 government agencies for services delivered in accordance with the
33 requirements of this chapter.

34 (b) The scope of a needs assessment update may be adjusted to
35 modify or omit study elements described under subsection (3) of this
36 section, subject to agreement from the renew advisory council, the
37 utilities and transportation commission, and any producer
38 responsibility organization by January 15th of the year in which the
39 statewide needs assessment update is to be conducted.

1 NEW SECTION. **Sec. 6.** PLAN PARTICIPATION OBLIGATION—STAKEHOLDER

2 CONSULTATION FOR PLAN. (1) Each producer of covered products must
3 participate in, implement, and fund a producer responsibility
4 organization plan approved by the department in accordance with the
5 funding requirements established in section 10 of this act.

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

12 (3) Prior to submitting a new, updated, or revised plan to the
13 department, a producer responsibility organization must conduct a
14 consultation process to directly and actively involve stakeholders in
15 development of key plan elements established in section 7 of this
16 act. The consultation process must solicit and respond to input and
17 recommendations from the renew advisory council established in
18 section 20 of this act, the utilities and transportation commission,
19 and other stakeholders. The consultation process required in advance
20 of the submission of a plan to the department is in addition to the
21 department-led public comment process specified in section 4(4) of
22 this act. At a minimum, the consultation process must include:

23 (a) Quarterly meetings with the renew advisory council throughout
24 the plan development process to discuss and review key plan elements;

25 (b) Consultation on the base cost formulas to be used for
26 calculating per unit reimbursement rates to government agencies for
27 curbside collection services;

28 (c) Consultation on the reimbursement rates to be used for any
29 services other than curbside collection that may be included in
30 producer responsibility organization plans to be carried out by
31 government agencies;

32 (d) Consultation on the service agreement template and any other
33 forms, contracts, or documents outlining the terms and conditions for
34 reimbursement to government agencies for services delivered in
35 accordance with the requirements of this chapter;

36 (e) Prudency review by the utilities and transportation
37 commission of base cost formulas proposed to be used for calculating
38 reimbursement rates for government agencies, as described in section
39 13 of this act. For the purposes of this chapter, a prudency review
40 must include the following:

1 (i) Before base cost formulas are submitted to the department as
2 part of a producer responsibility organization plan, the utilities
3 and transportation commission must conduct a prudency review;

4 (ii) Within 45 days after receiving base cost formulas from a
5 producer responsibility organization, the utilities and
6 transportation commission must have reviewed the formulas and shall
7 advise the producer responsibility organization and the renew
8 advisory council on the prudency of the reimbursement rates to be
9 paid by a producer responsibility organization to government agencies
10 for costs incurred in delivery of services in accordance with the
11 requirements of this chapter;

12 (f) Opportunities for all stakeholders, including the renew
13 advisory council, the utilities and transportation commission, and
14 members of the public to provide comment on the plan for no less than
15 30 days prior to its submission to the department;

16 (g) Presentations in various formats and languages as necessary
17 for soliciting meaningful input on the plan and receiving comments
18 including workshops, surveys, webinars, and one-on-one meetings; and

19 (h) Documentation of all comments received from the renew
20 advisory council and other stakeholders, and summary of responses
21 provided by the producer responsibility organization for purposes of
22 a stakeholder consultation report to be included with the submission
23 of a plan to the department. The stakeholder consultation report must
24 also describe each forum in which comments or input was received and
25 how it was addressed in the plan.

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

30 (2) All plans and plan updates must contain the following
31 information:

32 (a) Identification of the governing board members of the producer
33 responsibility organization;

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

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

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

3 (e) How the producer responsibility organization will encourage
4 and incentivize redesign of covered products to be reusable,
5 recyclable, or compostable;

6 (f) How the producer responsibility organization will use and
7 interact with recycling programs and infrastructure that predate the
8 implementation of the plan;

9 (g) How the producer responsibility organization will fund reuse
10 and recycling infrastructure and market development in Washington
11 state as described in section 16 of this act;

12 (h) How the program will maximize the efficiency of the system of
13 collecting and managing covered products through reuse and recycling;

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

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

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

20 (B) Through alternate collection; and

21 (C) Through public place collection;

22 (iii) If the list includes any covered product that is not
23 recyclable as defined in section 2 of this act, the plan must provide
24 a justification for its inclusion on the list and describe activities
25 to be undertaken to meet the definition within a reasonable time
26 frame;

27 (j) Activities to be undertaken to make convenient collection
28 services available for covered products in accordance with the
29 convenience standards established under section 11 of this act
30 including, at minimum, the following information:

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

33 (A) Service provider information, including whether the service
34 provider is a government agency, a private service provider under
35 contract with a government agency, or a private service provider
36 regulated by the utilities and transportation commission; and

37 (B) Service frequency, schedule, collection methods, types of
38 covered products included, and other pertinent service details,
39 including whether any changes are anticipated as part of plan
40 implementation;

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

4 (iii) The types of alternate collection used other than permanent
5 collection facilities, including detailed descriptions of the
6 collection methods, any physical infrastructure used, covered
7 products included, and whether any changes are anticipated as part of
8 plan implementation; and

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

12 (k) Proposed reuse and recycling rate targets for covered
13 products reported as supplied, as described in section 9 of this act,
14 including a description of the basis and reasoning for the targets
15 proposed;

16 (l) Activities to be undertaken to meet the proposed reuse and
17 recycling rate targets;

18 (m) Activities to be undertaken to implement the education and
19 outreach component as required under section 17 of this act;

20 (n) Activities to facilitate recycling of covered products back
21 into covered products and encourage development of circular economic
22 activity in the state and region. The producer responsibility
23 organization shall provide a description of how the producers would
24 propose to structure agreements to purchase recycled materials from
25 material recovery facilities or other processing facilities to
26 support producers priority access to commodities, based on fair
27 market pricing for commodities of comparable quality and considering
28 long-term contracts and other purchase arrangements;

29 (o) Activities to be undertaken to minimize the amount and cost
30 of residuals from the collection and processing of covered materials
31 designated for collection. These include residuals from materials
32 recovery facilities or similar facilities producing specification-
33 grade commodities for sale, but do not include residuals from further
34 processing of end market-ready material;

35 (p) A description of how plan implementation will maintain
36 responsible management practices for covered products through to
37 final disposition;

38 (q) (i) A description of the base cost formulas to be used to
39 calculate per unit reimbursement rates for curbside collection
40 services with similar attributes that are delivered by government

1 agencies in accordance with the requirements of this chapter, whether
2 such services are provided directly or through a contracted service
3 provider. If a plan includes more than one base cost formula for
4 curbside collection services, the producer responsibility
5 organization must make clear the conditions under which each formula
6 will be applied;

7 (ii) A description of the reimbursement rates to be used for any
8 services other than curbside collection included in the plan that are
9 to be carried out by government agencies;

10 (iii) The producer responsibility organization must describe:

11 (A) How the per unit reimbursement rates cover all obligations
12 associated with curbside collection services specified in this
13 chapter and any other services included in the plan that are to be
14 delivered by government agencies;

15 (B) How reimbursements will be distributed;

16 (C) Any terms or conditions covered in the service agreements
17 with government agencies for receiving reimbursements, including any
18 service standards and reporting requirements; and

19 (D) How the producer responsibility organization will work with
20 government agencies and other stakeholders to achieve successful
21 implementation of the services for which the producer responsibility
22 organization provides reimbursement;

23 (iv) The producer responsibility organization must provide a
24 template of the service agreement and any other forms, contracts, or
25 other documents for use in distribution of reimbursements to
26 government agencies and other stakeholders;

27 (r) A description of the service standards for residential
28 curbside collection services provided in areas regulated by the
29 utilities and transportation commission under the provisions of
30 chapter 81.77 RCW;

31 (s) Activities to be undertaken to reduce contamination from
32 covered products at compost or other organics processing facilities
33 and similar facilities, including through decontamination equipment
34 improvements and conducting packaging contamination composition
35 studies;

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

38 (u) A description of the dispute resolution process, including
39 the process timeline, to be used, as needed, by the producer
40 responsibility organization to resolve any disputes involving

1 reimbursement of government agencies as established in sections 10
2 and 12 of this act;

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

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

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

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

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

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

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

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

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

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

34 (4) (a) Prior to program use of any advanced technology for
35 conversion of postuse plastic polymers for the purpose of producing
36 recycled material to be counted toward reuse and recycling
37 performance targets, the producer responsibility organization must
38 provide the department with a third-party assessment prepared to
39 examine the impact of the advanced technology on the following:

1 (i) Air and water pollution and release or creation of any
2 hazardous pollutants; and

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

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

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

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

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

22 (ii) Inbound material quality and contamination;

23 (iii) Outbound material quality and contamination;

24 (iv) Outbound material tons and end markets, including whether
25 they are domestic, export to organization for economic cooperation
26 and development countries, or export to facilities in other countries
27 that meet organization for economic cooperation and development
28 operating standards;

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

31 (vi) Residuals, including residue rate, composition, and disposal
32 location;

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

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

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

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

11 (d) The requirements of (a) and (b) of this subsection do not
12 apply to any facility operated by a scrap metal business as defined
13 in RCW 19.290.010 that holds a current scrap metal license unless the
14 covered products handled by such a business were received directly
15 from collection services for which a producer responsibility
16 organization has provided reimbursement.

17 (6) To facilitate recycling of covered products back into covered
18 products and encourage development of circular economic activity in
19 the state and region, material recovery facilities and other
20 processing facilities handling materials under the program shall
21 prioritize agreements with and on behalf of producers or producer
22 responsibility organizations regarding long-term contracts and other
23 purchase agreements based on fair market pricing for commodities of
24 comparable quality.

25 NEW SECTION. **Sec. 9.** REUSE AND RECYCLING RATE TARGETS. (1) To
26 inform the development of initial reuse and recycling rate targets to
27 be proposed by producer responsibility organizations, the department
28 must conduct a reuse and recycling rate targets study, to be
29 completed within one year of the effective date of this section.

30 (a) The reuse and recycling rate targets study must be:

31 (i) Carried out by a third-party consultant selected by the
32 department; and

33 (ii) Funded through payments collected from producer
34 responsibility organizations.

35 (b) The reuse and recycling rate targets study must:

36 (i) Assess the reuse and recycling rates currently being achieved
37 in the state for covered products, by material category, based on
38 recently published studies, publicly available data sources, and data
39 provided by producer responsibility organizations as required under

1 section 3(3) of this act and calculated using the calculation
2 methodology established in subsections (4) and (5) of this section;

3 (ii) Review the reuse and recycling rate targets set and achieved
4 in jurisdictions with producer responsibility organization for
5 packaging or similar programs and evaluate whether those rates are
6 applicable in the state;

7 (iii) Recommend reuse and recycling rate targets, including a
8 target for the overall combined reuse and recycling rate of covered
9 products, and a separate target specifically for a minimum reuse
10 rate, which is also to be counted within the overall combined reuse
11 and recycling rate target, to be achieved for covered products
12 statewide by the ninth calendar year from the effective date of this
13 section, with consideration of feasibility of achieving recommended
14 targets based on current rates achieved in the state, rates achieved
15 in other jurisdictions with similar programs, and additional relevant
16 data.

17 (c) The renew advisory council and any producer responsibility
18 organization that is registered with the department by January 15,
19 2023, must have the opportunity to review and comment on a draft
20 reuse and recycling rate targets study prior to its completion.

21 (d) Beginning January 1, 2028, and no more frequently than every
22 five years, the department may update the reuse and recycling rate
23 targets study to inform the development of reuse and recycling rate
24 targets to be proposed by producer responsibility organizations in
25 their plans.

26 (2) By September 1, 2023, any registered producer responsibility
27 organization must submit to the department proposed reuse and
28 recycling rate targets for covered products reported by the producer
29 responsibility organization as supplied into the state to be achieved
30 by the ninth calendar year from the effective date of this section.
31 In proposing targets, the producer responsibility organization must:

32 (a) Consider the targets recommended in the reuse and recycling
33 rate targets study;

34 (b) Propose, at minimum, a target for the overall combined reuse
35 and recycling rate of covered products, and a separate target
36 specifically for a minimum reuse rate, which is also to be counted
37 within the overall combined reuse and recycling rate target;

38 (c) Provide a justification for the targets proposed, if they are
39 different from those recommended in the reuse and recycling rate
40 targets study; and

1 (d) Adhere to the reuse and recycling rate calculation
2 methodology established in subsections (4) and (5) of this section.

3 (3) Any producer responsibility organization plan submitted to
4 the department must include targets for covered products reported by
5 the producer responsibility organization as supplied into the state,
6 to be achieved by the end of the plan implementation period, taking
7 into account the findings of the reuse and recycling rate targets
8 study, statewide needs assessment, and additional relevant data.

9 (a) At minimum, the plan must include:

10 (i) A target overall combined reuse and recycling rate of covered
11 products;

12 (ii) A separate target minimum reuse rate of covered products,
13 which is also to be counted within the overall combined reuse and
14 recycling rate target; and

15 (iii) A target combined reuse and recycling rate for each
16 material category of covered products reported by the producer
17 responsibility organization as supplied into the state.

18 (b) Proposed targets must demonstrate continuous improvement in
19 reuse and recycling rates of covered products over time.

20 (c) Proposed targets must adhere to the reuse and recycling rate
21 calculation methodology established in subsections (4) and (5) of
22 this section.

23 (d) Any plan submitted to the department prior to the ninth
24 calendar year from the effective date of this section must also
25 include reuse and recycling rate targets to be achieved by the ninth
26 calendar year from the effective date of this section. If the targets
27 differ from those previously approved by the department as required
28 under subsection (2) of this section, the producer responsibility
29 organization must provide a justification for the proposed
30 adjustment.

31 (4) For the purposes of this chapter, the amount of recycled
32 material must be measured at the following calculation point for each
33 material category of covered products included in the plan:

34 (a) Rigid plastic material that:

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

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

1 (b) Flexible plastic material that:
2 (i) Is delivered to a facility for flaking, pelletization,
3 extrusion, molding, or advanced technology for conversion of postuse
4 plastic polymers for use in the production of new products whether
5 for the original or another purpose; or
6 (ii) Is compostable and is delivered to an industrial composting
7 facility under an agreement with that facility;
8 (c) Paper material that:
9 (i) Is delivered to a pulping operation or other facility for use
10 in the production of new products whether for the original or another
11 purpose; or
12 (ii) Is compostable and is delivered to an industrial composting
13 facility under an agreement with that facility;
14 (d) Aluminum 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 (e) Steel material that is delivered to a metal smelter or
18 furnace or other facility for use in the production of new products
19 whether for the original or another purpose;
20 (f) Glass material that is delivered to a glass furnace or other
21 facility for the production of glass containers and products;
22 (g) For materials that are not included in the material
23 categories listed in (a) through (f) of this subsection, the
24 calculation point must be proposed and described by the producer
25 responsibility organization in its plan and annual report and is
26 subject to approval by the department in order to be included in the
27 reuse and recycling rate calculation.
28 (5) For the purposes of this chapter, a combined reuse and
29 recycling rate must be calculated as the sum of the amount of reused
30 material and recycled material managed by the program in a given
31 year, divided by the amount of covered products supplied into the
32 state in the same year, expressed as a percentage, where:
33 (a) Covered products supplied into the state in a given year is
34 the amount calculated in accordance with section 18(2)(b) of this
35 act;
36 (b) Reused material is the amount of covered product managed by
37 the program in the same year that was sold or supplied for reuse for
38 their original or similar purpose or function; and

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

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

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

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

13 (b) A producer responsibility organization shall allow producers
14 of covered products that are newspapers or magazines to satisfy their
15 obligations under this section by providing advertisement or
16 publication in their newspapers, magazines, or on their websites in
17 lieu of program fees as long as the value of the advertisement is
18 equivalent to the estimated cost of managing the covered products
19 that are newspapers or magazines, which are to be determined as
20 described in subsection (4) of this section. The producer
21 responsibility organization may consider the in-state reach of the
22 advertising when determining the value of the advertising.

23 (4) The fee system must be based on the estimated cost of
24 managing the material categories of covered products or a similar
25 approach proposed by the producer responsibility organization
26 including, but not limited to, consideration of the following
27 factors:

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

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

33 (c) The commodity value of each material category as a recycled
34 material.

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

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

39 (ii) Encourage the use of recycled content;

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

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

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

10 (c) Fees collected under this fee system must be used exclusively
11 for plan implementation and other activities required under this
12 chapter.

13 (6) If more than one producer responsibility organization is
14 registered within the state, each producer responsibility
15 organization must coordinate with other producer responsibility
16 organizations to provide reimbursement and ensure that government
17 agencies and service providers are reimbursed for recycling services
18 as required under this chapter, and to ensure that covered products
19 are not reported as supplied or managed by more than one producer
20 responsibility organization.

21 NEW SECTION. **Sec. 11.** CONVENIENCE STANDARDS. (1) In every
22 jurisdiction in which covered products are sold or supplied to
23 consumers, a producer responsibility organization must fund
24 activities to make convenient collection services available for the
25 full list of covered products designated for collection in the plan.
26 Convenient collection services must be available to residents as
27 follows:

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

32 (b) (i) In jurisdictions without curbside garbage collection, and
33 in all areas for covered products designated for alternate
34 collection, free and equitable access to permanent collection
35 facilities must be provided that are located, at minimum, at:

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

1 (B) Additional drop-off locations or collection events in
2 communities that are not covered by a collection location described
3 in (b) (i) (A) of this subsection. The producer responsibility
4 organization, in consultation with the department, the relevant
5 government agency, and the local community, must determine a
6 reasonable number and location of additional drop-off locations or
7 frequency and location of collection events to be held in underserved
8 areas. The producer responsibility organization must give special
9 consideration for providing opportunities to island and
10 geographically isolated populations.

11 (ii) A retail establishment may choose to serve as a drop-off
12 location or as the site of a collection event through mutual
13 agreement with a producer responsibility organization, but nothing in
14 this chapter requires a retailer to serve as a drop-off location or
15 site of a collection event.

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

18 (i) Where government agencies provided and managed recycling
19 collection receptacles prior to the effective date of this section.
20 The number and location of receptacles may be adjusted to optimize
21 collection based on mutual agreement between the producer
22 responsibility organization and the government agency providing the
23 service; and

24 (ii) At additional locations as determined by the producer
25 responsibility organization, based on the recommendations of the
26 statewide needs assessment in section 5 of this act and stakeholder
27 consultation in section 6 of this act. Collection in additional
28 locations is subject to mutual agreement by the producer
29 responsibility organization and the government agency or other entity
30 responsible for the public place.

31 (2) In any jurisdiction where collection of source separated
32 recyclable materials from residences is provided by a city or town
33 under the authority of RCW 35.21.120, by a county under the authority
34 of RCW 36.58.040, or by a company that holds an applicable
35 certificate under the authority of chapter 81.77 RCW, a producer
36 responsibility organization must meet its curbside collection service
37 obligation through the existing curbside collection service as
38 described in section 12 of this act.

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

4 (b) If more than one producer responsibility organization is
5 registered with the state, each producer responsibility organization
6 must coordinate with other producer responsibility organizations to
7 establish the statewide list of covered products designated for
8 collection.

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

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

18 (a) Obligate a county, city, or town that utilizes its contract
19 authority under RCW 35.21.120 or 36.58.040 for collection of source
20 separated recyclable materials from residents or a city or town that
21 undertakes collection of source separated recyclable materials from
22 residents to participate in a plan implemented by a producer
23 responsibility organization;

24 (b) Restrict the authority of a city under RCW 35.21.120,
25 35.21.130, and 35.21.152; or

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

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

31 (b) The producer responsibility organization must reimburse the
32 government agency for services delivered in accordance with the
33 requirements of this chapter as described in section 13 of this act.

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

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

9 (4) Cities and counties are not obligated to provide resident
10 education but may carry out or contract for resident education and
11 outreach consistent with producer responsibility organization plan
12 provisions under section 17 of this act and be reimbursed for the
13 costs of these initiatives as described in section 13 of this act.

14 (5) A city, town, or county may not enact an ordinance requiring
15 producers of covered products to provide additional residential
16 recycling services for covered products unless producers are not
17 required to fully fund the requirements of this chapter.

18 NEW SECTION. **Sec. 13.** COST REIMBURSEMENT FOR SERVICES PROVIDED
19 BY GOVERNMENT AGENCIES. (1) A producer responsibility organization
20 with covered products designated for curbside collection under its
21 plan must provide reimbursement to a government agency that chooses
22 to seek reimbursement for costs incurred in delivering curbside
23 collection services, whether these services are provided directly or
24 through a contracted service provider. Reimbursable costs include, as
25 applicable, any administrative, public education, collection,
26 transportation, and sorting or processing costs incurred in
27 delivering curbside collection services in accordance with the
28 requirements of this chapter. Reimbursements for curbside collection
29 services must be calculated using base cost formulas established in
30 the producer responsibility organization plan approved by the
31 department.

32 (2) If a producer responsibility organization elects to use the
33 services of a government agency for any other services included in
34 the producer responsibility organization plan, it must provide
35 reimbursement to the government agency. Reimbursement for any
36 services other than curbside collection services may be calculated
37 using reimbursement rates established for additional services in the
38 producer responsibility organization plan approved by the department.

1 (3) Reimbursement rates may be adjusted in response to contract
2 cost escalators, commodity pricing adjustments, new program costs, or
3 other uncontrollable costs as agreed upon by the renew advisory
4 council, the producer responsibility organization, the utilities and
5 transportation commission, and approved by the department.

6 NEW SECTION. **Sec. 14.** COST REIMBURSEMENT FOR SERVICES REGULATED
7 BY THE UTILITIES AND TRANSPORTATION COMMISSION. In areas where
8 collection of source separated recyclable materials from residences
9 is regulated by the utilities and transportation commission under
10 chapter 81.77 RCW, a producer responsibility organization must
11 provide reimbursement to the company granted a certificate to provide
12 the service in accordance with the rates approved by the commission,
13 including all associated taxes and fees that would be otherwise
14 charged to residential customers directly or indirectly for recycling
15 service, provided that the service:

16 (1) Is offered to residents in single-family and multifamily
17 residences wherever curbside garbage collection services are offered;

18 (2) Includes collection of all covered products designated for
19 curbside collection;

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

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

25 NEW SECTION. **Sec. 15.** SERVICE PROVIDER AGREEMENTS. (1) Service
26 agreements between producer responsibility organizations and
27 government agencies under this chapter are limited in scope to
28 authorizing the reimbursement of costs according to the reimbursement
29 rates determined according to section 13 this act, and any other
30 services included in a producer responsibility organization plan that
31 are to be carried out by a government agency, and upon verification
32 that the services provided meet the terms and conditions established
33 under the producer responsibility organization plan approved by the
34 department.

35 (2) Except for curbside collection services provided in
36 accordance with sections 11 and 12 of this act, a producer
37 responsibility organization that enters into contractual agreements

1 with service providers to carry out producer responsibilities under
2 this act must:

3 (a) Use open, competitive, and fair procurement practices;

4 (b) Provide opportunities for women, minority, or veteran-owned
5 businesses, small businesses, and independent operators to
6 participate as service providers;

7 (c) Require that all contracted service providers:

8 (i) Meet minimum operating standards, including the requirements
9 of this chapter and chapter 70A.205 RCW;

10 (ii) Meet high labor standards, including family-level wages,
11 providing benefits including health care and retirement plans or
12 contributions, and demonstrate procurement from and contracts with
13 women, minority, or veteran-owned businesses; and

14 (iii) Provide fair opportunities regardless of ethnicity, race,
15 gender, age, disability, religion, sexual orientation, or national
16 origin; and

17 (d) Require that contracted service providers maintain records
18 and provide the producer responsibility organization with verifiable
19 chain of custody documentation, reporting parameters for material
20 recovery facilities and other processing facilities under section 8
21 of this act, and other documentation necessary to evaluate the
22 performance relative to the requirements of this chapter. The
23 producer responsibility organization must submit the records and
24 documentation required under this subsection to the department, upon
25 request by the department.

26 NEW SECTION. **Sec. 16.** INFRASTRUCTURE INVESTMENTS. (1) Each
27 producer responsibility organization must fund and support
28 investments in reuse and recycling infrastructure and market
29 development in Washington state as needed to achieve the convenience
30 standards specified in section 11 of this act, the management
31 standards specified in section 8 of this act, the reuse and recycling
32 rate targets set in producer responsibility organization plans as
33 described in section 9 of this act, or to address infrastructure
34 gaps, including investments needed to enable reuse of covered
35 products or the recycling of covered products not currently recycled
36 in the residential recycling system, as identified through the
37 statewide needs assessment under section 5 of this act and through
38 the consultation process under section 6 of this act. This may
39 include, but is not limited to:

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

4 (b) Capital expenditures for new technology, equipment, and
5 facilities.

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

11 NEW SECTION. **Sec. 17.** EDUCATION AND OUTREACH. (1) Each plan
12 implemented by a producer responsibility organization under this
13 chapter must include an education and outreach component that
14 effectively reaches diverse residents, is accessible, is clear, and
15 supports the achievement of the reuse and recycling rate targets set
16 in producer responsibility organization plans as described in section
17 9 of this act. The education and outreach component must, at minimum:

18 (a) Develop and provide outreach and educational materials,
19 resources, and campaigns about the program to be used by retailers,
20 collectors, government agencies, and nonprofit organizations. The
21 materials, resources, and campaigns developed under this section must
22 address, at minimum, information about:

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

24 (ii) Where and how to recycle covered products designated for
25 collection; and

26 (iii) How to prevent contamination;

27 (b) Coordinate and fund the distribution of statewide promotional
28 campaigns developed under this section through media channels that
29 may include, but need not be limited to, print publications, radio,
30 television, the internet, and online streaming services;

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

35 (d) Be conceptually, linguistically, and culturally accurate for
36 the communities served and tailored to effectively reach the state's
37 diverse populations, including through meaningful consultation with
38 overburdened communities and vulnerable populations as defined in RCW
39 70A.02.010;

1 (e) Establish a process for answering customer questions and
2 resolving customer concerns; and

3 (f) Evaluate the effectiveness of education and outreach efforts
4 for the purposes of making progress toward performance requirements
5 established in this chapter.

6 (2) A producer responsibility organization must coordinate with
7 government agencies that choose to participate in carrying out
8 resident education and outreach in accordance with the approach
9 specified in the producer responsibility organization's plan.

10 NEW SECTION. **Sec. 18.** ANNUAL REPORTING ON ACTIVITIES. (1)
11 Beginning July 1, 2027, and each July 1st thereafter, each producer
12 responsibility organization must submit an annual report to the
13 department for the preceding calendar year of plan implementation.

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

15 (a) Identification of the governing board members of the producer
16 responsibility organization;

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

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

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

23 (iii) The weight and, where applicable and determined by the
24 department to be necessary, number of units, by material category, of
25 covered products supplied into the state to consumers for personal
26 use, to be used for the purposes of calculating the reuse and
27 recycling rate targets set in producer responsibility organization
28 plans as described in section 9 of this act;

29 (iv) (A) 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 for
32 personal use, which are considered covered products under this
33 chapter, from quantities of packaging and paper products sold or
34 supplied for other uses that are not considered covered products
35 under this chapter;

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

38 (v) The quantity of covered products supplied that were designed
39 to be reusable, recyclable, or compostable in accordance with

1 criteria established by the department, reported separately for each
2 of these categories by material, weight, and, where applicable and
3 determined by the department to be necessary, number of units;

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

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

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

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

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

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

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

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

24 (i) Names and locations of end users or reprocessors that
25 received recycled material managed by the program, by material
26 category; and

27 (ii) Descriptions of the forms of recycled material managed by
28 the program that were sold or supplied to the end users or
29 reprocessors;

30 (e) The reuse and recycling rates achieved by the program, for
31 each material category of covered product supplied and for all
32 covered products supplied into the state, calculated in accordance
33 with the requirements in section 9 (4) and (5) of this act;

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

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

39 (i) A list of jurisdictions and service providers where curbside
40 collection services for covered products are provided, accompanied by

1 a brief description of services provided, locations and operating
2 hours of permanent collection facilities, types and locations of
3 alternate collection methods used, and locations of public place
4 collection services; and

5 (ii) Collection service accessibility and convenience metrics,
6 including population coverage, the geographic distribution of
7 collection, and the distance of collection locations to state
8 residents;

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

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

13 (ii) The locations of all material recovery facilities and other
14 processing facilities used to meet the requirements of this chapter,
15 whether within Washington, elsewhere in North America, or outside of
16 North America;

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

19 (iv) The reasons, if any, the producer responsibility
20 organization has used alternatives to preexisting local collection
21 and processing facilities to meet the requirements under this
22 chapter;

23 (i) A detailed description of education and outreach activities
24 undertaken and a summary of the evaluation of education and outreach
25 effectiveness;

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

27 (i) Prevent and reduce waste and reduce the life-cycle
28 environmental impacts of covered products supplied or sold in or into
29 Washington; and

30 (ii) Design covered products to be reusable, recyclable, or
31 compostable;

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

34 (l) An assessment of the greenhouse gas emissions associated with
35 program operations, including both direct emissions and indirect
36 emissions with all activities, and including the avoided emissions
37 from source reduction, reuse, and recycling of covered products into
38 new products and materials;

1 (m) A summary of renew advisory council, established in section
2 20 of this act, engagement and input as well as comments received
3 from additional stakeholders and community members;

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

7 (i) Information regarding the independently audited financial
8 statements detailing all payments received and issued by the producer
9 responsibility organization covered by the plan approved by the
10 department;

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

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

16 (o) Any other information required by the department, as adopted
17 by rule.

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

22 (b) Annual independent auditing and verification must:

23 (i) Include documentation of the reuse and recycling rate
24 calculations;

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

27 (iii) Determine whether all facilities involved in the
28 collection, processing, and final disposition of collected covered
29 products are operating in accordance with the requirements of this
30 chapter and responsible management of covered products.

31 NEW SECTION. **Sec. 19.** PLAN APPROVAL, UPDATES, AND REVISIONS.

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

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

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

6 (b) If the reuse and recycling rate targets set in producer
7 responsibility organization plans as described in section 9 of this
8 act have not been met as of the time of plan update, an independent
9 evaluation must be conducted of the producer responsibility
10 organization's efforts to implement the plan approved by the
11 department. The evaluation must provide information for the producer
12 responsibility organization to use to target and improve reuse and
13 recycling rate performance.

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

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

19 (b) The department may require a producer responsibility
20 organization to revise its plan more frequently than every five years
21 if:

22 (i) The program and activities to implement the plan fail to
23 achieve the reuse and recycling rate targets set in producer
24 responsibility organization plans as described in section 9 of this
25 act or otherwise fail to achieve significant requirements under this
26 chapter; or

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

29 NEW SECTION. **Sec. 20.** RENEW ADVISORY COUNCIL. (1) The renew
30 advisory council is established.

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

33 (a) Four representatives of local governments representing
34 geographic areas across the state, including urban and rural
35 communities;

36 (b) One representative of tribes or tribal or indigenous services
37 organizations;

38 (c) One representative of special purpose districts;

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

4 (e) Two representatives of environmental nonprofit organizations;

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

8 (g) Six representatives of the recycling industry, including
9 local governments' service providers, solid waste collection
10 companies or associations, material recovery facilities or other
11 processing facilities;

12 (h) Four representatives of producers of covered products or
13 producer trade associations representing different types of covered
14 products. A member appointed to the council under this subsection may
15 not be a representative or a member of the board of directors of a
16 producer responsibility organization registered with the department
17 under section 3 of this act; and

18 (i) Two representatives of packaging suppliers that are not
19 producers as defined under this act representing different material
20 categories.

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

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

27 (b) Consider recommendations for appointments from relevant
28 represented groups or associations and from individuals interested in
29 participating on the council.

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

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

36 (5) (a) The council shall elect one of its members to serve as
37 chairperson and another to serve as vice chairperson, for the terms
38 and with the duties and powers necessary for the performance of the
39 functions of such offices as the council determines. The chairperson

1 and vice chairperson may not both be members appointed under the same
2 subsection of subsection (2)(a) through (i) of this section.

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

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

10 (7)(a) The department shall provide staff support and
11 facilitation as necessary for the council to carry out the duties of
12 the council.

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

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

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

19 (b) Review and comment on a draft reuse and recycling rate
20 targets study and on a draft statewide needs assessment prior to
21 their completion;

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

25 (d) Review and comment on all new, updated, and revised plans
26 submitted by producer responsibility organizations to the department,
27 including making recommendations to the department on plan approvals,
28 as part of the public comment period as established under section 4
29 of this act;

30 (e) Advise and make recommendations to any registered producer
31 responsibility organization on annual reports prior to submission as
32 established in section 18 of this act;

33 (f) Review and comment on all annual reports submitted by
34 producer responsibility organizations to the department, including
35 making recommendations to the department regarding the need for any
36 plan amendments or other recommendations regarding program
37 activities; and

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

1 (9) Renew advisory council members that are representatives of
2 tribes or tribal and indigenous services organizations or community-
3 based and environmental nonprofit organizations must, if requested,
4 be compensated and reimbursed in accordance with RCW 43.03.050,
5 43.03.060, and 43.03.220.

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

9 (a) Department resources, including staff time;

10 (b) A third-party facilitator; and

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

13 **Sec. 21.** RCW 70A.245.010 and 2021 c 313 s 2 are each amended to
14 read as follows:

15 The definitions in this section apply throughout this chapter
16 unless the context clearly requires otherwise.

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

21 (a) Water and flavored water;

22 (b) Beer or other malt beverages;

23 (c) Wine;

24 (d) Distilled spirits;

25 (e) Mineral water, soda water, and similar carbonated soft
26 drinks; and

27 (f) Any beverage other than those specified in (a) through (e) of
28 this subsection, except infant formula as defined in 21 U.S.C. Sec.
29 321(z), medical food as defined in 21 U.S.C. Sec. 360ee(b)(3), or
30 fortified oral nutritional supplements used for persons who require
31 supplemental or sole source nutritional needs due to special dietary
32 needs directly related to cancer, chronic kidney disease, diabetes,
33 or other medical conditions as determined by the department.

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

36 (3) "Condiment packaging" means packaging used to deliver single-
37 serving condiments to customers. Condiment packaging includes, but is
38 not limited to, single-serving packaging for ketchup, mustard,

1 relish, mayonnaise, hot sauce, coffee creamer, salad dressing, jelly,
2 jam, and soy sauce.

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

6 (i) Plastic trash bags;

7 (ii) Household cleaning and personal care products that use
8 plastic household cleaning and personal care product containers;
9 ((and))

10 (iii) Beverages that use plastic beverage containers;

11 (iv) Polypropylene tubs used for food products;

12 (v) PET thermoform plastic containers; and

13 (vi) Single-use plastic cups.

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

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

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

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

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

33 (9) "Food service product" means a product intended for one-time
34 use and used for food or drink offered for sale or use. Food service
35 products include, but are not limited to, containers, plates, bowls,
36 cups, lids, beverage containers, meat trays, deli rounds, utensils,
37 sachets, straws, condiment packaging, clamshells and other hinged or
38 lidded containers, wrap, and portion cups.

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

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

2 (b) Household cleaning products;

3 (c) Liquid soap;

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

6 (e) Lotion, moisturizer, facial toner, and other skin care
7 products.

8 (11) "Household cleaning and personal care product manufacturing
9 industry" means an association that represents companies that
10 manufacture household cleaning and personal care products.

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

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

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

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

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

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

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

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

36 (i) A minimum capacity of eight fluid ounces or its equivalent
37 volume;

38 (ii) A maximum capacity of five fluid gallons or its equivalent
39 volume;

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

- (iv) Comprised solely of one or multiple plastic resins; and
- (v) Containing a household cleaning or personal care product.

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

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

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

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

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

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

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

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

(ii) If the covered product is manufactured by a person other than the brand owner, the producer is the person who is the licensee of a brand or trademark under which a covered product is sold,

1 offered for sale, or distributed in or into this state, whether or
2 not the trademark is registered in this state, unless the
3 manufacturer or brand owner of the covered product has agreed to
4 accept responsibility under this chapter; or

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

9 (b) "Producer" does not include:

10 (i) Government agencies, municipalities, or other political
11 subdivisions of the state;

12 (ii) Registered 501(c)(3) charitable organizations and 501(c)(4)
13 social welfare organizations; or

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

16 (A) Less than one ton of a single category of plastic beverage
17 containers, plastic household cleaning and personal care containers,
18 ~~((\neq)) plastic trash bags, polypropylene tubs used for food products,
19 PET thermoform plastic containers, or single-use plastic cups each
20 year; or~~

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

23 (20)(a) "Retail establishment" means any person, corporation,
24 partnership, business, facility, vendor, organization, or individual
25 that sells or provides merchandise, goods, or materials directly to a
26 customer.

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

33 (21)(a) "Utensil" means a product designed to be used by a
34 consumer to facilitate the consumption of food or beverages,
35 including knives, forks, spoons, cocktail picks, chopsticks, splash
36 sticks, and stirrers.

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

39 (22) "Durable good" means a product that provides utility over an
40 extended period of time.

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

6 (i) Branded and prepackaged containers that have been filled with
7 products and sealed prior to receipt by the retail establishment,
8 such as fresh produce, baked goods, nuts, toys, electronics, and
9 tools;

10 (ii) Containers that may be filled at the point-of-sale at a
11 retail establishment; and

12 (iii) Unfilled containers that are sold directly.

13 (b) "Polyethylene terephthalate (PET) thermoform plastic
14 container" does not include:

15 (i) Single-use plastic cups;

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

19 (iii) Rigid plastic containers that are or are used for medical
20 devices, medical products that are required to be sterile,
21 nonprescription and prescription drugs, or dietary supplements as
22 defined in RCW 82.08.0293;

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

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

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

29 (24) "Polypropylene tub" means tubs with wide-mouth containers
30 that have a snap-on lid capable of multiple closures or are sealed
31 with a tamper-proof film, and have a maximum capacity or volume of 50
32 ounces volumetric fill, including:

33 (a) Branded and prepackaged containers that have been filled with
34 products and sealed prior to receipt by the retail establishment;

35 (b) Containers that may be filled at the point-of-sale at a
36 retail establishment; and

37 (c) Unfilled containers that are sold directly.

38 (25) "Single-use plastic cup" means all nonsealed and sealed at
39 point-of-sale, beverage serving cups, except commercially or home

1 compostable cups, expanded polystyrene, or plastic-lined fiber cups
2 (i.e., composite cups).

3 **Sec. 22.** RCW 70A.245.020 and 2021 c 313 s 3 are each amended to
4 read as follows:

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

7 (i) Beverages other than wine in 187 milliliter plastic beverage
8 containers and dairy milk in plastic beverage containers must meet
9 minimum postconsumer recycled content requirements established under
10 subsection (4) of this section; and

11 (ii) Plastic trash bags must meet minimum postconsumer recycled
12 content requirements established under subsection (6) of this
13 section.

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

19 (c) Beginning January 1, 2026, producers that offer for sale,
20 sell, or distribute in or into Washington polypropylene tubs used for
21 food products must meet minimum postconsumer recycled content
22 requirements established under subsection (7) of this section.

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

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

32 (f) Beginning January 1, 2031, producers that offer for sale,
33 sell, or distribute in or into Washington PET thermoform plastic
34 containers except those containing durable goods must meet minimum
35 postconsumer recycled content requirements established under
36 subsection (8) of this section.

37 (g) Beginning January 1, 2036, producers that offer for sale,
38 sell, or distribute in or into Washington durable goods in PET
39 thermoform plastic containers must meet minimum postconsumer recycled

1 content requirements established under subsection (8) of this
2 section.

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

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

15 (b) The registration information submitted to the department
16 under this section must include a list of the producers of covered
17 products and the brand names of the covered products represented in
18 the registration submittal. Beginning ~~((April 1))~~ January 31, 2024,
19 for plastic trash bags and plastic beverage containers other than
20 wine in 187 milliliter plastic beverage containers and dairy milk in
21 plastic beverage containers, ~~((April 1))~~ January 31, 2026, for
22 plastic household and personal care product containers, ~~((and April~~
23 1)) January 31, 2027, for polypropylene tubs used for food products,
24 January 31, 2029, for wine in 187 milliliter plastic beverage
25 containers and dairy milk, January 31, 2030, for single-use plastic
26 cups, January 31, 2032, for PET thermoform plastic containers except
27 those used for durable goods, and January 31, 2037, for PET
28 thermoform plastic containers used for durable goods, a producer may
29 submit registration information at the same time as the information
30 submitted through the annual reporting required under RCW
31 70A.245.030.

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

37 (i) Prepare an annual workload analysis for public comment that
38 identifies the annual costs it expects to incur to implement,
39 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
33 used for food products, or PET thermoform plastic containers, or
34 their third-party representative, must submit a fee payment as
35 determined by the department under (a) of this subsection by May 1,
36 2023, and every May 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 used for food products,
4 by weight, that are sold, offered for sale, or distributed in or into
5 Washington by the 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, 2031, through December 31, 2035: No less than 10
17 percent postconsumer recycled content plastic by weight; and

18 (ii) On and after January 1, 2036: 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, 2036, 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. 23.** 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 used for food products beginning April 1, 2027.

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

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

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

17 (g) The requirements of (a) of this subsection apply to PET
18 thermoform plastic containers used for durable goods beginning April
19 1, 2037.

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

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

33 NEW SECTION. Sec. 24. TRUTH IN LABELING. (1) Beginning January
34 1, 2026, a producer may not offer for sale, sell, or distribute in or
35 into Washington, including by means of remote sale, any covered
36 product that makes a deceptive or misleading claim about its
37 recyclability.

38 (a) A covered product that displays a chasing arrows symbol, a
39 chasing arrows symbol surrounding a resin identification code, or any

1 other symbol or statement indicating that it is recyclable is deemed
2 to be deceptive or misleading unless it is designated for collection
3 in a producer responsibility organization plan approved by the
4 department as described in section 7 of this act;

5 (b) A label is not considered a misleading or deceptive claim of
6 recyclability if it:

7 (i) Is required by another state or by a federal law or agency at
8 the time that the claim is made;

9 (ii) Is part of a widely adopted and standardized third-party
10 labeling system; or

11 (iii) Uses a chasing arrows symbol in combination with a clearly
12 visible line placed at a 45 degree angle over the chasing arrows
13 symbol to convey that an item is not recyclable.

14 (2) At such time as an enforceable federal statutory or
15 regulatory standard is implemented for labeling packaging related to
16 recyclability, within 180 days the department shall review criteria
17 under this chapter with federal standards or requirements and may
18 adopt the federal criteria in lieu of the requirements of this
19 section.

20 (3) Beginning July 1, 2022, a city, town, or county may not enact
21 an ordinance restricting the distribution or sale of covered products
22 due to displaying a chasing arrows symbol, a chasing arrows symbol
23 surrounding a resin identification code, or any other symbol or
24 statement indicating that it is recyclable if the covered product is,
25 at the time that the claim is made:

26 (a) Designated for collection in a producer responsibility
27 organization plan approved by the department as described in section
28 7 of this act;

29 (b) Required to display the symbol or statement by another state
30 or by a federal law or agency;

31 (c) Part of a widely adopted and standardized third-party
32 labeling system; or

33 (d) Using a chasing arrows symbol in combination with a clearly
34 visible line placed at a 45 degree angle over the chasing arrows
35 symbol to convey that an item is not recyclable.

36 NEW SECTION. **Sec. 25.** ROLL CARTS. (1) Beginning January 1,
37 2023, a manufacturer or person may only sell, offer for sale, or
38 distribute for use in Washington plastic collection bins made from at
39 least 25 percent postconsumer recycled content, including at least 10

1 percent derived from curbside recycling programs. However, a person
2 providing solid waste collection services may distribute for use in
3 Washington any plastic collection bins that were in use or in its
4 inventory in Washington state prior to January 1, 2023, until the end
5 of such bins' useful life.

6 (2) A person with an existing municipal contract for plastic
7 collection bins that was in place prior to August 1, 2022, is exempt
8 from this section until the expiration or renewal date of the
9 contract. A new or renewed contract whose terms take effect after
10 August 1, 2022, must be consistent with the requirements of this
11 section. Exempt persons are encouraged to meet the requirements of
12 this section as collection bins are replaced under existing
13 contracts.

14 (3) Manufacturers of plastic collection bins, including persons
15 that sell, offer for sale, distribute, or provide collection bins in
16 Washington must provide written evidence or certification, upon
17 request, to the department or any municipality, retailer, stewardship
18 organization, solid waste collection company, or other purchaser of
19 collection bins showing that their collection bins meet the
20 requirements of this section.

21 (4) For the purposes of this section, "plastic collection bins"
22 include plastic bins, cans, carts, toters, roll carts, or other
23 receptacles used to collect recyclables, compostable materials, or
24 garbage used by solid waste collection services.

25 NEW SECTION. **Sec. 26.** PACKAGING REGISTRATION CLEARINGHOUSE—
26 PRODUCER REGISTRATION. (1) The department is authorized to
27 participate in the development and ongoing operation of a regional or
28 multistate clearinghouse for the purpose of facilitating the
29 implementation of state laws and rules on packaging and paper
30 products including, but not limited to, requirements established
31 under this chapter and in chapters 70A.222, 70A.230, 70A.245,
32 70A.340, and 70A.350 RCW and other relevant laws.

33 (2) The department may direct producers to register and submit
34 any required data, annual reports, fees, and annual payments, and any
35 additional information or documentation to a clearinghouse in lieu of
36 the department.

1 NEW SECTION. **Sec. 27.** OTHER ASSISTANCE PROGRAMS. Nothing in
2 this chapter impacts an entity's eligibility for any state or local
3 incentive or assistance program to which they are otherwise eligible.

4 NEW SECTION. **Sec. 28.** ACCOUNT. The responsible packaging
5 management account is created in the custody of the state treasury.
6 All receipts received by the department under this chapter must be
7 deposited in the account. Only the director of the department or the
8 director's designee may authorize expenditures from the account. The
9 account is subject to the allotment procedures under chapter 43.88
10 RCW, but an appropriation is not required for expenditures.
11 Expenditures from the account may be used by the department only for
12 implementing, administering, and enforcing the requirements of this
13 chapter.

14 **Sec. 29.** RCW 43.21B.110 and 2021 c 316 s 41 and 2021 c 313 s 16
15 are each reenacted and amended to read as follows:

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

23 (a) Civil penalties imposed pursuant to RCW 18.104.155,
24 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070,
25 70A.515.060, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080,
26 70A.65.200, section 4 of this act, 76.09.170, 77.55.440, 78.44.250,
27 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and
28 90.64.102.

29 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
30 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070,
31 70A.245.020, 70A.65.200, section 4 of this act, 86.16.020, 88.46.070,
32 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

33 (c) Except as provided in RCW 90.03.210(2), the issuance,
34 modification, or termination of any permit, certificate, or license
35 by the department or any air authority in the exercise of its
36 jurisdiction, including the issuance or termination of a waste
37 disposal permit, the denial of an application for a waste disposal
38 permit, the modification of the conditions or the terms of a waste

1 disposal permit, or a decision to approve or deny an application for
2 a solid waste permit exemption under RCW 70A.205.260.

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

5 (e) Decisions of local health departments regarding the issuance
6 and enforcement of permits to use or dispose of biosolids under RCW
7 70A.226.090.

8 (f) Decisions of the department regarding waste-derived
9 fertilizer or micronutrient fertilizer under RCW 15.54.820, and
10 decisions of the department regarding waste-derived soil amendments
11 under RCW 70A.205.145.

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

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

21 (i) Decisions of the department of natural resources, the
22 department of fish and wildlife, and the department that are
23 reviewable under chapter 76.09 RCW, and the department of natural
24 resources' appeals of county, city, or town objections under RCW
25 76.09.050(7).

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

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

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

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

39 (n) Decisions of the department of ecology that are appealable
40 under RCW 70A.245.020 to set recycled minimum postconsumer content

1 for covered products or to temporarily exclude types of covered
2 products in plastic containers from minimum postconsumer recycled
3 content requirements.

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

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

8 (b) Hearings conducted by the department pursuant to RCW
9 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,
10 70A.15.3110, and 90.44.180.

11 (c) Appeals of decisions by the department under RCW 90.03.110
12 and 90.44.220.

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

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

18 **Sec. 30.** RCW 43.21B.300 and 2021 c 316 s 42 and 2021 c 313 s 17
19 are each reenacted and amended to read as follows:

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

1 (2) Any penalty imposed under this section may be appealed to the
2 pollution control hearings board in accordance with this chapter if
3 the appeal is filed with the hearings board and served on the
4 department or authority thirty days after the date of receipt by the
5 person penalized of the notice imposing the penalty or thirty days
6 after the date of receipt of the notice of disposition by a local air
7 authority of the application for relief from penalty.

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

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

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

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

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

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

1 created in section 41 of this act), which shall be credited to the
2 responsible packaging management account created by section 28 of
3 this act.

4 **Sec. 31.** RCW 70A.205.005 and 2002 c 299 s 3 are each amended to
5 read as follows:

6 The legislature finds:

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

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

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

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

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

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

35 (b) It is the responsibility of state, county, and city
36 governments to provide for a waste management infrastructure to fully
37 implement waste reduction and source separation strategies and to
38 process and dispose of remaining wastes in a manner that is
39 environmentally safe and economically sound. It is further the

1 responsibility of state, county, and city governments to monitor the
2 cost-effectiveness and environmental safety of combusting separated
3 waste, processing mixed municipal solid waste, and recycling
4 programs.

5 (c) It is the responsibility of county and city governments to
6 assume primary responsibility for solid waste management and to
7 develop and implement aggressive and effective waste reduction and
8 source separation strategies.

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

19 (e) It is the responsibility of producers to help provide for the
20 responsible management of their products.

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

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

28 (a) Waste reduction;

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

31 (c) Energy recovery, incineration, or landfill of separated
32 waste;

33 (d) Energy recovery, incineration, or landfill of mixed municipal
34 solid wastes.

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

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

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

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

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

9 (14) Excessive and nonrecyclable packaging of products should be
10 avoided.

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

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

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

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

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

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

35 **Sec. 32.** RCW 70A.205.010 and 2005 c 394 s 2 are each amended to
36 read as follows:

37 The purpose of this chapter is to establish a comprehensive
38 statewide program for solid waste handling, and solid waste recovery
39 and/or recycling which will prevent land, air, and water pollution

1 and conserve the natural, economic, and energy resources of this
2 state. To this end it is the purpose of this chapter:

3 (1) To assign primary responsibility for adequate solid waste
4 handling to local government, reserving to the state, however, those
5 functions necessary to assure effective programs throughout the
6 state, and sharing with producers responsibility for the management
7 of their covered products;

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

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

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

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

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

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

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

35 **Sec. 33.** RCW 70A.205.045 and 2020 c 20 s 1163 are each amended
36 to read as follows:

37 Each county and city comprehensive solid waste management plan
38 shall include the following:

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

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

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

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

13 (b) Take into account the comprehensive land use plan of each
14 jurisdiction;

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

17 (d) Contain a plan for financing both capital costs and
18 operational expenditures of the proposed solid waste management
19 system.

20 (4) A program for surveillance and control.

21 (5) A current inventory and description of solid waste collection
22 needs and operations within each respective jurisdiction which shall
23 include:

24 (a) Any franchise for solid waste collection granted by the
25 utilities and transportation commission in the respective
26 jurisdictions including the name of the holder of the franchise and
27 the address of his or her place of business and the area covered by
28 the franchise;

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

31 (c) The population density of each area serviced by a city
32 operation or by a franchised operation within the respective
33 jurisdictions;

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

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

1 (7) The waste reduction and recycling element shall include the
2 following:

3 (a) Waste reduction strategies, which may include strategies to
4 reduce wasted food and food waste that are designed to achieve the
5 goals established in RCW 70A.205.715(1) and that are consistent with
6 the plan developed in RCW 70A.205.715(3);

7 (b) Source separation strategies, including:

8 (i) Programs for the collection of source separated materials
9 from residences (~~(in urban and rural areas)~~), including programs that
10 are the responsibility of producer responsibility organizations in
11 chapter 70A.--- RCW (the new chapter created in section 41 of this
12 act). (~~(In urban areas, these)~~) These programs shall include
13 collection of source separated recyclable materials from single and
14 multiple-family residences, unless the department approves an
15 alternative program, according to the criteria in the planning
16 guidelines. Such criteria shall include: Anticipated recovery rates
17 and levels of public participation, availability of environmentally
18 sound disposal capacity, access to markets for recyclable materials,
19 unreasonable cost impacts on the ratepayer over the six-year planning
20 period, utilization of environmentally sound waste reduction and
21 recycling technologies, and other factors as appropriate. (~~(In rural~~
22 ~~areas, these)~~) These programs shall also include but not be limited
23 to drop-off boxes, buy-back centers, or a combination of both, at
24 each solid waste transfer, processing, or disposal site, or at
25 locations convenient to the residents of the county. The drop-off
26 boxes and buy-back centers may be owned or operated by public,
27 nonprofit, or private persons. Comprehensive solid waste management
28 plans that are newly developed, updated, or amended after July 1,
29 2026, may incorporate by reference the plans of producer
30 responsibility organizations established in the jurisdiction under
31 chapter 70A.--- RCW (the new chapter created in section 41 of this
32 act) to fulfill this requirement;

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

36 (iii) Programs to collect yard waste and food waste, if the
37 county or city submitting the plan finds that there are adequate
38 markets or capacity for composted yard waste and food waste within or
39 near the service area to consume the majority of the material
40 collected; and

1 (iv) Programs to educate and promote the concepts of waste
2 reduction and recycling;

3 (c) Recycling strategies, including a description of markets for
4 recyclables, a review of waste generation trends, a description of
5 waste composition, a discussion and description of existing programs
6 and any additional programs needed to assist public and private
7 sector recycling, and an implementation schedule for the designation
8 of specific materials to be collected for recycling, and for the
9 provision of recycling collection services;

10 (d) Other information the county or city submitting the plan
11 determines is necessary.

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

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

20 (10) A contamination reduction and outreach plan. The
21 contamination reduction and outreach plan must address reducing
22 contamination in recycling. Except for counties with a population of
23 twenty-five thousand or fewer, by July 1, 2021, a contamination
24 reduction and outreach plan must be included in each solid waste
25 management plan by a plan amendment or included when revising or
26 updating a solid waste management plan developed under this chapter.
27 Jurisdictions may adopt the state's contamination reduction and
28 outreach plan as developed under RCW 70A.205.070 or participate in a
29 producer responsibility organization's plan in lieu of creating their
30 own plan. In comprehensive solid waste management plans that are
31 newly developed, updated, or amended after July 1, 2026, a
32 jurisdiction must reference the plans of producer responsibility
33 organizations established in the jurisdiction under chapter 70A.---
34 RCW (the new chapter created in section 41 of this act). A recycling
35 contamination reduction and outreach plan must include the following:

36 (a) A list of actions for reducing contamination in recycling
37 programs for single-family and multiple-family residences, commercial
38 locations, and drop boxes depending on the jurisdictions system
39 components;

1 (b) A list of key contaminants identified by the jurisdiction or
2 identified by the department;

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

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

7 (e) An implementation schedule and details of how outreach is to
8 be conducted. Contamination reduction education methods may include
9 sharing community-wide messaging through newsletters, articles,
10 mailers, social media, websites, or community events, informing
11 recycling drop box customers about contamination, and improving
12 signage.

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

15 (1) The commission shall supervise and regulate every solid waste
16 collection company in this state(~~(7~~
17 ~~(1))~~);

18 (a) By fixing and altering its rates, charges, classifications,
19 rules and regulations;

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

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

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

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

29 ~~((6))~~ (f) By reviewing producer responsibility organization
30 reimbursement of regulated service providers;

31 (g) By requiring certificate holders under this chapter (~~81.77~~
32 RCW) to use rate structures and billing systems consistent with the
33 solid waste management priorities set forth under RCW 70A.205.005 and
34 the minimum levels of solid waste collection and recycling services
35 pursuant to local comprehensive solid waste management plans and with
36 implementation of services designated by a producer responsibility
37 organization in an approved plan to meet the requirements of chapter
38 70A.--- RCW (the new chapter created in section 41 of this act). The
39 commission may order consolidated billing and provide for reasonable

1 and necessary expenses to be paid to the administering company if
2 more than one certificate is granted in an area.

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

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

14 A solid waste collection company shall not operate for the
15 hauling of solid waste for compensation without first having obtained
16 from the commission a certificate declaring that public convenience
17 and necessity require such operation. Operating for the hauling of
18 solid waste for compensation includes advertising, soliciting,
19 offering, or entering into an agreement to provide that service. To
20 operate a solid waste collection company in the unincorporated areas
21 of a county, the company must comply with the solid waste management
22 plan prepared under chapter 70A.205 RCW in the company's franchise
23 area and, if applicable, the service standards established in an
24 approved producer responsibility organization plan to meet the
25 requirements of chapter 70A.--- RCW (the new chapter created in
26 section 41 of this act).

27 Issuance of the certificate of necessity must be determined on,
28 but not limited to, the following factors: The present service and
29 the cost thereof for the contemplated area to be served; an estimate
30 of the cost of the facilities to be utilized in the plant for solid
31 waste collection and disposal, set out in an affidavit or
32 declaration; a statement of the assets on hand of the person, firm,
33 association, or corporation that will be expended on the purported
34 plant for solid waste collection and disposal, set out in an
35 affidavit or declaration; a statement of prior experience, if any, in
36 such field by the petitioner, set out in an affidavit or declaration;
37 and sentiment in the community contemplated to be served as to the
38 necessity for such a service.

1 When an applicant requests a certificate to operate in a
2 territory already served by a certificate holder under this chapter,
3 the commission may, after notice and an opportunity for a hearing,
4 issue the certificate only if the existing solid waste collection
5 company or companies serving the territory will not provide service
6 to the satisfaction of the commission or if the existing solid waste
7 collection company does not object.

8 In all other cases, the commission may, with or without hearing,
9 issue certificates, or for good cause shown refuse to issue them, or
10 issue them for the partial exercise only of the privilege sought, and
11 may attach to the exercise of the rights granted such terms and
12 conditions as, in its judgment, the public convenience and necessity
13 may require.

14 Any right, privilege, certificate held, owned, or obtained by a
15 solid waste collection company may be sold, assigned, leased,
16 transferred, or inherited as other property, only if authorized by
17 the commission.

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

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

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

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

32 (b) All known and measurable costs related to implementation of
33 the approved county or city comprehensive solid waste management plan
34 or to implementation of services designated by a producer
35 responsibility organization in an approved plan to meet the
36 requirements of chapter 70A.--- RCW (the new chapter created in
37 section 41 of this act).

38 (2) If a solid waste collection company files a tariff to recover
39 the costs specified under this section, and the commission suspends

1 the tariff, the portion of the tariff covering costs specified in
2 this section shall be placed in effect by the commission at the
3 request of the company on an interim basis as of the originally filed
4 effective date, subject to refund, pending the commission's final
5 order. The commission may adopt rules to implement this section.

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

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

13 (1) The commission shall allow solid waste collection companies
14 collecting recyclable materials other than covered products collected
15 under an approved plan in chapter 70A.--- RCW (the new chapter
16 created in section 41 of this act) to retain up to fifty percent of
17 the revenue paid to the companies for the material if the companies
18 submit a plan to the commission that is certified by the appropriate
19 local government authority as being consistent with the local
20 government solid waste plan and that demonstrates how the revenues
21 will be used to increase recycling. The remaining revenue shall be
22 passed to residential customers.

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

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

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

28 NEW SECTION. **Sec. 38.** APPLICATION OF CHAPTER—COLLECTION AND
29 TRANSPORTATION OF RECYCLABLE MATERIALS BY RECYCLING COMPANIES OR
30 NONPROFIT ENTITIES—REUSE OR RECLAMATION. (1) Nothing in this chapter
31 prevents a recycling company or nonprofit entity from collecting and
32 transporting recyclable materials from a buy-back center, drop box,
33 or from a commercial or industrial generator of recyclable materials
34 that does not include materials generated from single and multiple-
35 family residences upon agreement with a solid waste collection
36 company.

37 (2) Nothing in this chapter may be construed as prohibiting a
38 commercial or industrial generator of commercial recyclable materials

1 that does not contain materials generated from single or multiple-
2 family residences from selling, conveying, or arranging for
3 transportation of the material to a recycler for reuse or
4 reclamation.

5 NEW SECTION. **Sec. 39.** AUTHORITY OF UTILITIES AND TRANSPORTATION
6 COMMISSION. Nothing in this chapter changes or limits the authority
7 of the Washington utilities and transportation commission to regulate
8 collection of solid waste, including curbside collection of
9 residential recyclable materials, in accordance with chapter 81.77
10 RCW.

11 NEW SECTION. **Sec. 40.** SEVERABILITY CLAUSE. If any provision of
12 this act or its application to any person or circumstance is held
13 invalid, the remainder of the act or the application of the provision
14 to other persons or circumstances is not affected.

15 NEW SECTION. **Sec. 41.** CODIFICATION DIRECTIVE. Sections 1
16 through 20, 24 through 28, 38, and 39 of this act constitute a new
17 chapter in Title 70A RCW.

--- END ---