
HOUSE BILL 2049

State of Washington

68th Legislature

2024 Regular Session

By Representatives Berry, Doglio, Fitzgibbon, Ramel, Duerr, Mena, Ryu, Bateman, Slatter, Gregerson, Simmons, Peterson, Macri, Street, Alvarado, Fosse, Pollet, and Kloba

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1 AN ACT Relating to improving Washington's solid waste management
2 outcomes; amending RCW 70A.245.010, 70A.245.020, 70A.245.030,
3 70A.245.040, 70A.245.090, 70A.245.100, 70A.245.120, 70A.245.060,
4 70A.205.005, 70A.205.010, 70A.205.045, 81.77.030, 81.77.160, and
5 81.77.185; reenacting and amending RCW 43.21B.110 and 43.21B.300;
6 adding a new section to chapter 70A.245 RCW; adding a new section to
7 chapter 81.77 RCW; adding new chapters to Title 70A RCW; repealing
8 RCW 70A.245.110; prescribing penalties; providing effective dates;
9 and providing an expiration date.

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

11 **Part One**

12 **Providing for Producer Responsibility in the Management of Packaging**
13 **and Paper Products**

14 NEW SECTION. **Sec. 101.** FINDINGS—INTENT. (1) The legislature
15 finds that, as of 2024, Washington's statewide waste recovery rate,
16 which seeks to preserve public health, safety, and welfare, and
17 conserve energy and natural resources, has been generally static
18 since 2011 and that Washington is not meeting the statewide goal of
19 50 percent recycling established in 1989.

1 (2) The legislature finds that packaging designs and materials
2 have changed and the way Washington's residents use, consume, and
3 manage materials when no longer wanted has also changed significantly
4 in recent years. These shifts contributed to unintended consequences,
5 such as the deterioration of ecosystems regionally and worldwide, as
6 well as increased levels of pollution and greenhouse gas emissions
7 that contribute to global climate change, and reductions in human
8 well-being, especially for the most vulnerable populations.

9 (3) The legislature finds that convenient and environmentally
10 sound extended producer responsibility programs that include the
11 collection, transportation, reuse, and recycling, and the proper end-
12 of-life management of unwanted products help protect Washington's
13 environment and the health of state residents. In general, the
14 state's waste management hierarchy establishes that products should
15 be managed in a manner where a priority is placed on waste reduction,
16 reuse, and recycling over energy recovery and landfill disposal.

17 (4) The legislature finds that many residents, particularly those
18 who live in rural areas and in multifamily residences, do not have
19 access to convenient or affordable curbside recycling, and must rely
20 on taking recyclables to drop box locations, and that extended
21 producer responsibility programs could make curbside recycling
22 available and affordable for most people in the state.

23 (5) The legislature also finds that the department of ecology was
24 directed, through an independent consultant, to study how plastic
25 packaging is managed in the state and assess various policy options.
26 The study recommended, in part: (a) An extended producer
27 responsibility policy for all consumer packaging and paper products
28 with a framework that makes producers responsible for achieving
29 specific environmental outcomes for the packaging and paper products
30 they supply into Washington state; and (b) postconsumer recycled
31 content requirements.

32 (6) In addition, the legislature finds extended producer
33 responsibility policies designed to cover all consumer packaging and
34 paper materials offer the potential for greater economies of scale
35 and operational efficiencies than could be achieved under a policy
36 applied only to a subset of materials.

37 (7) It is the intent of the legislature to require extended
38 producer responsibility programs for consumer packaging and paper
39 products be implemented in a manner that involves producers in
40 material management from design concept to end of life. These

1 programs incentivize innovation and research to develop new and more
2 efficient recycling and reuse technologies and minimize negative
3 environmental impacts of the packaging and paper products.

4 (8) It is intended that these programs be responsibly planned and
5 funded, so that covered products are handled and accounted for from
6 the point of collection through the final destination in a way that
7 minimizes negative impacts to the environment and minimizes risks to
8 public health and worker health and safety. It is also intended that
9 these programs build and expand on the existing waste and recycling
10 system's infrastructure and reliance on the authority of local
11 governments and the utilities and transportation commission in solid
12 waste management.

13 (9) It is the intent of the legislature that producers increase
14 the use of postconsumer recycled content in their products, to
15 achieve the goals in RCW 70A.520.010(2) and to create strong markets
16 for recycled materials and achieve environmental benefits.

17 (10) It is the intent of the legislature that, through design and
18 innovation, producers will reduce the use and negative climate impact
19 of consumer packaging and paper products and increase the use of
20 postconsumer recycled content.

21 (11) Finally, it is the intent of the legislature that Washington
22 should maintain the successful public-private partnership between
23 state, local government, and solid waste and recycling service
24 providers. The legislature does not intend to diminish or displace
25 the primary role of the utilities and transportation commission and
26 local governments in regulating or contracting directly with service
27 providers for the curbside collection of residential recyclables.
28 Local governments maintain their existing authority to collect,
29 contract for collection with solid waste and recycling service
30 providers, or defer to solid waste collection services regulated by
31 the utilities and transportation commission.

32 NEW SECTION. **Sec. 102.** DEFINITIONS. The definitions in this
33 section apply throughout this chapter unless the context clearly
34 requires otherwise.

35 (1) "Alternative recycling process" means a recycling process
36 that occurs other than through purely mechanical means.

37 (2) "Brand" means a name, symbol, word, logo, or mark that
38 identifies an item and attributes the item and its components,
39 including packaging, to the brand owner of the item.

1 (3) "Compostable" means a product that is capable of undergoing
2 aerobic biological decomposition in a composting system, that results
3 in the material being broken down primarily into carbon dioxide,
4 water, inorganic compounds, and biomass, and is in compliance with
5 the requirements for a product labeled as compostable under chapter
6 70A.455 RCW.

7 (4) "Composting system" means a system meeting the requirements
8 of chapter 70A.205 RCW applicable to facilities that treat solid
9 waste for composting.

10 (5) "Consumer" means a person who purchases or receives a covered
11 product and is the intended end user or recipient of the covered
12 product.

13 (6) "Contamination" means:

14 (a) The presence of materials in a given collected material
15 stream that are not on the list of materials designated for
16 collection in that material stream; or

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

20 (7) "Covered product" means packaging and paper products sold or
21 supplied to consumers for personal, noncommercial use.

22 (8) "De minimis producer" means a producer that:

23 (a) Annually sells, offers for sale, distributes, or imports into
24 Washington state less than one ton of covered products; or

25 (b) Has a global gross revenue of less than \$5,000,000 for the
26 most recent fiscal year of the organization.

27 (9) "Department" means the department of ecology.

28 (10) "Designated for collection" means the covered products that
29 are a material on the uniform statewide collection list for curbside
30 recycling programs or otherwise identified as suitable for recycling
31 collection in this state by the department as described in section
32 107 of this act.

33 (11) "Eliminate" or "elimination," with respect to source
34 reduction, means the removal of a plastic component from a covered
35 material.

36 (12) "Final disposition" means the point at which a covered
37 product:

38 (a) Becomes a reused material;

39 (b) Becomes a recycled material; or

1 (c) Is delivered to a disposal site, as defined in RCW
2 70A.205.015.

3 (13) "Government entity" means any:

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

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

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

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

14 (14) "Item" means a product in or with packaging.

15 (15) "Material category" means a group of covered products that
16 have similar properties such as chemical composition, shape, or other
17 characteristics.

18 (16) "Overburdened communities" means the overburdened
19 communities identified and prioritized by the department under RCW
20 70A.02.050(1)(a).

21 (17)(a) "Packaging" means a material, substance, or object that
22 is:

23 (i) Used to protect, contain, transport, or serve an item;

24 (ii) Sold or supplied to consumers expressly for the purpose of
25 protecting, containing, transporting, or serving items;

26 (iii) Attached to an item or its container for the purpose of
27 marketing or communicating information about the item;

28 (iv) Supplied at the point of sale to facilitate the delivery of
29 the item; or

30 (v) Supplied to or purchased by consumers expressly for the
31 purpose of facilitating food or beverage consumption that is
32 ordinarily discarded by consumers after a single use or short-term
33 use.

34 (b) "Packaging" does not include:

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

1 (ii) For purposes of this chapter only, materials used to package
2 pesticide products regulated by the federal insecticide, fungicide,
3 and rodenticide act, 7 U.S.C. Sec. 136 et seq. that are in direct
4 contact with the regulated product. This exemption does not include
5 products regulated by the United States food and drug administration;

6 (iii) Products excluded temporarily under section 127 of this
7 act;

8 (iv) Liquefied petroleum gas containers that are designed to be
9 refilled or returned;

10 (v) (A) Packaging for drugs that are used for animal medicines
11 including parasiticide products for animals; and (B) packaging for
12 products intended for animals that are regulated as animal drugs,
13 biologics, parasiticides, medical devices, or diagnostics used to
14 treat, or administered to, animals under the federal food, drug, and
15 cosmetic act, 21 U.S.C. Sec. 301 et seq., the federal insecticide,
16 fungicide, and rodenticide act, 7 U.S.C. Sec. 136 et seq., or the
17 federal virus-serum-toxin act, 21 U.S.C. Sec. 151 et seq., as
18 amended;

19 (vi) Packaging for products that are regulated as a medical
20 device or drug by the United States food and drug administration
21 under the federal food, drug, and cosmetic act, 21 U.S.C. Sec. 321 et
22 seq.;

23 (vii) Packaging related to containers of architectural paint that
24 has been collected by a stewardship organization under the program
25 established in chapter 70A.515 RCW;

26 (viii) Qualifying beverage containers subject to a refund value,
27 if applicable, and for which a distributor responsibility
28 organization or other entity responsible for implementing the program
29 has submitted and received approval from the department for a
30 coordination plan that describes how the qualifying beverage
31 containers will be managed in a manner that does not conflict with
32 plans implemented under this chapter.

33 (18) "Paper" means packaging or paper products made of paper
34 fiber, regardless of its cellulosic fiber source, which may include,
35 but is not limited to: Wood, wheat, rice, cotton, bananas,
36 eucalyptus, bamboo, hemp, and sugar cane or bagasse.

37 (19) "Paper product" means paper sold or supplied, including
38 flyers, brochures, booklets, catalogs, magazines, copy paper,
39 printing paper, and all other paper materials except for: (a) Bound
40 books; (b) conservation grade and archival grade paper; (c)

1 newspapers; (d) paper designed for use in building construction; and
2 (e) paper products that, by any common and foreseeable use, could
3 reasonably be anticipated to become unsafe or unsanitary to handle.

4 (20) "Plan" means description of the approach and activities
5 developed by a producer responsibility organization to fulfill the
6 requirements and to carry out the responsibilities of producers under
7 this chapter.

8 (21) "Postconsumer recycled content" has the same meaning as
9 defined in section 201 of this act.

10 (22)(a) "Producer" means the following person responsible for
11 compliance with requirements under this chapter for a covered product
12 sold, offered for sale, or distributed in or into this state:

13 (i) For items sold in or with packaging at a physical retail
14 location in this state:

15 (A) If the item is sold in or with packaging under the brand of
16 the item manufacturer or is sold in packaging that lacks
17 identification of a brand, the producer is the person that
18 manufactures the item;

19 (B) If there is no person to which (a)(i)(A) of this subsection
20 applies, the producer is the person that is licensed to manufacture
21 and sell or offer for sale to consumers in this state an item with
22 packaging under the brand or trademark of another manufacturer or
23 person;

24 (C) If there is no person to which (a)(i)(A) or (B) of this
25 subsection applies, the producer is the brand owner;

26 (D) If there is no person described in (a)(i)(A), (B), or (C) of
27 this subsection within the United States, the producer is the person
28 who is the importer of record for the item into the United States for
29 use in a commercial enterprise that sells, offers for sale, or
30 distributes the item in this state; or

31 (E) If there is no person described in (a)(i)(A) through (D) of
32 this subsection, the producer is the person that first distributes
33 the item in or into this state.

34 (ii) For items sold or distributed in packaging in or into this
35 state via e-commerce, remote sale, or distribution:

36 (A) For packaging used to directly protect or contain the item,
37 the producer of the packaging is the same as the producer identified
38 under (a)(i) of this subsection; and

1 (B) For packaging used to ship the item to a consumer, the
2 producer of the packaging is the person that packages the item to be
3 shipped to the consumer.

4 (iii) For packaging that is a covered product and is not included
5 in (a)(i) and (ii) of this subsection, the producer of the packaging
6 is the person that first distributes the item in or into this state.

7 (iv) For paper products that are magazines, catalogs, telephone
8 directories, or similar publications, the producer is the publisher.

9 (v) For paper products not described in (a)(iv) of this
10 subsection:

11 (A) If the paper product is sold under the manufacturer's own
12 brand, the producer is the person that manufactures the paper
13 product;

14 (B) If there is no person to which (a)(v)(A) of this subsection
15 applies, the producer is the person that is the owner or licensee of
16 a brand or trademark under which the paper product is used in a
17 commercial enterprise, sold, offered for sale, or distributed in or
18 into this state, whether or not the trademark is registered in this
19 state;

20 (C) If there is no person to which (a)(v)(A) or (B) of this
21 subsection applies, the producer is the brand owner of the paper
22 product;

23 (D) If there is no person described in (a)(v)(A), (B), or (C) of
24 this subsection within the United States, the producer is the person
25 that imports the paper product into the United States for use in a
26 commercial enterprise that sells, offers for sale, or distributes the
27 paper product in this state; or

28 (E) If there is no person described in (a)(v)(A) through (D) of
29 this subsection, the producer is the person that first distributes
30 the paper product in or into this state.

31 (vi) A person is the "producer" of a covered product sold,
32 offered for sale, or distributed in or into this state, as defined in
33 (a)(i) through (v) of this subsection, except:

34 (A) Where another person has mutually signed an agreement with a
35 producer as defined in (a)(i) through (v) of this subsection that
36 contractually assigns responsibility to the person as the producer,
37 and the person has joined a registered producer responsibility
38 organization as the responsible producer for that covered product
39 under this chapter. In the event that another person is assigned
40 responsibility as the producer under this subsection, the producer

1 under (a)(i) through (v) of this subsection must provide written
2 certification of that contractual agreement to the producer
3 responsibility organization; and

4 (B) If the producer described in (a)(i) through (v) of this
5 subsection is a business operated wholly or in part as a franchise,
6 the producer is the franchisor, if that franchisor has franchisees
7 that have a commercial presence within the state.

8 (b) "Producer" does not include:

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

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

13 (iii) De minimis producers.

14 (23) "Producer responsibility organization" means:

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

19 (b) Until January 15, 2027, an organization that has applied for
20 a tax exemption under 26 U.S.C. Sec. 501(c)(3) of the federal
21 internal revenue code and is designated by a producer or group of
22 producers to develop and carry out the activities required of
23 producers under this chapter;

24 (c) A producer that registers with the department as a producer
25 responsibility organization; or

26 (d) An organization as defined by rule by the department.

27 (24) "Program" means the activities conducted to implement an
28 approved producer responsibility organization plan.

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

36 (b) "Public place" does not include a retail establishment or
37 industrial, commercial, or privately owned property that is not
38 required to be accessible to the public.

39 (26) "Recyclable" means a covered product that is collected,
40 separated, and reprocessed into a recycled material, and that does

1 not contain harmful chemical, physical, biological, or radiological
2 substances that will pose a threat to human health or the environment
3 for its intended or likely manner of use.

4 (27)(a) "Recycled material" means material derived from covered
5 products that is reprocessed into products or delivered as feedstocks
6 or commodities to a responsible end market for use in the production
7 of new products whether for the original or another purpose.

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

11 (28) "Responsible end market" means a materials market in which
12 the recycling of materials and the disposal of materials that cause
13 contamination is conducted in a way that:

14 (a) Minimizes negative impacts to the environment; and

15 (b) Minimizes risks to public health and worker health and
16 safety.

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

22 (30) "Responsible producer" means a producer that is not a de
23 minimis producer.

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

28 (32) "Reusable" means:

29 (a) For returnable packaging that is returned to a producer for
30 reuse, the packaging satisfies all of the following:

31 (i) Explicitly designed and marketed to be utilized multiple
32 times for the same product or for another purposeful packaging use in
33 a supply chain without undergoing a change in form;

34 (ii) Designed for durability to function properly in its original
35 condition for multiple cycles of reuse;

36 (iii) Supported by adequate infrastructure, where needed, to
37 ensure the packaging can be conveniently and safely reused for
38 multiple cycles; and

39 (iv) Repeatedly recovered, inspected, and reissued into the
40 supply chain for reuse for multiple cycles.

1 (b) For refillable packaging that is refilled by a consumer, the
2 packaging satisfies all of the following:

3 (i) Explicitly designed and marketed to be utilized multiple
4 times for the same product;

5 (ii) Designed for durability to function properly in its original
6 condition for utilization in multiple cycles of refill; and

7 (iii) Supported by adequate and convenient availability of
8 services, infrastructure, or at-home refill systems to ensure the
9 packaging can be conveniently and safely refilled by the consumer
10 multiple times.

11 (33) "Socially just management" means practices that:

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

15 (b) Prevent or, if not preventable, minimize environmental harms
16 or risks; and

17 (c) Prevent or, if not preventable, minimize and mitigate
18 negative impacts to overburdened communities or vulnerable
19 populations identified by the department.

20 (34) "Vulnerable populations" has the same meaning as defined in
21 RCW 70A.02.010.

22 NEW SECTION. **Sec. 103.** PRODUCER AND PRODUCER RESPONSIBILITY
23 ORGANIZATION DUTIES. (1)(a) Beginning October 1, 2025, each producer
24 that offers for sale, sells, or distributes in or into Washington a
25 covered product must join a producer responsibility organization that
26 is registered with the department or register with the department as
27 a producer responsibility organization. Beginning October 1, 2025, a
28 producer that is not a member of a registered producer responsibility
29 organization or registered as a producer responsibility organization
30 may not sell or supply covered products in or into Washington.

31 (b) Until the conclusion of the initial plan implementation
32 period as provided under section 108 of this act, the department must
33 only accept the registration of a single producer responsibility
34 organization, other than any producers that register individually as
35 a producer responsibility organization. Until the conclusion of the
36 initial plan implementation period, producers of covered products
37 must either join the producer responsibility organization or register
38 individually as a producer responsibility organization for purposes
39 of compliance under this section. If registrations for more than one

1 producer responsibility organization are submitted to the department
2 by March 1, 2025, not counting registrations submitted by individual
3 producers, the department must determine which proposed producer
4 responsibility organization can most effectively implement this
5 chapter.

6 (c) If more than one producer responsibility organization is
7 registered with the department, the producer responsibility
8 organizations must submit a coordination plan to the department for
9 approval. If requested by the producer responsibility organizations,
10 the department may serve as a coordinating body or oversee
11 coordination of producer responsibility organization plans. The
12 requirements of this subsection apply to the initial plan period
13 consisting of a single producer responsibility organization and any
14 producers registering individually, and subsequent plan periods where
15 multiple producer responsibility organizations and individual
16 producers may register with the department.

17 (2) A producer responsibility organization that meets the
18 definition under section 102 of this act that implements or proposes
19 to implement a plan under this chapter may not include on its board
20 of directors, or otherwise be governed by, representatives or
21 affiliates of any public or private entities that submit bids to
22 perform work for the producer responsibility organization or that
23 contract with the producer responsibility organization.

24 (3) By March 1, 2025, and each March 1st thereafter, each
25 producer, through a submission by a producer responsibility
26 organization, must register with the department. A registration
27 submission by a producer responsibility organization must include the
28 following:

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

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

36 (b) Until a producer responsibility organization begins to submit
37 annual reports, as specified under section 119 or 209 of this act,
38 the following data for the prior calendar year:

39 (i) The weight, by material category, of covered products
40 supplied or sold into the state to consumers. The weight of any

1 covered products that are reusable or compostable must each be
2 reported separately from the weight of other types of covered
3 products;

4 (ii) A description of how the quantities of packaging and paper
5 products sold or supplied to consumers that are considered covered
6 products under this chapter are distinguished from uses that are not
7 considered covered products under this chapter; and

8 (iii) A list of all member producers and their brands of
9 postconsumer recycled content products required to meet the
10 postconsumer recycled content requirements of chapter 70A.--- RCW
11 (the new chapter created in section 502 of this act).

12 (4) A producer may submit national or regional data allocated on
13 a per capita basis for Washington to approximate the information
14 required in subsection (3) of this section if state-level data is not
15 available or feasible to generate.

16 (5) By May 1, 2025, and every May 1st thereafter, a producer
17 responsibility organization must submit the packaging financial
18 assistance fee to the department, as determined in section 112(7) of
19 this act.

20 (6) By May 1, 2026, and every May 1st thereafter, a producer
21 responsibility organization must submit an annual payment to the
22 department for the projected annual costs of the department to
23 conduct oversight, administration, and enforcement for the next
24 fiscal year, as determined by the department in section 104 of this
25 act, to fund all costs to implement, administer, and enforce this
26 chapter and chapter 70A.--- RCW (the new chapter created in section
27 502 of this act), including rule making but excluding the financial
28 assistance program created in section 112(7) of this act.

29 (7) By October 1, 2027, or 12 months after the completion of the
30 statewide needs assessment under section 105 of this act, whichever
31 is later, a producer responsibility organization must submit a plan
32 to the department for approval consistent with the requirements of
33 this chapter.

34 (a) A producer responsibility organization registered with the
35 department as of July 1, 2027, must:

36 (i) Implement its approved plan by January 1, 2029, or within six
37 months of plan approval, whichever is later;

38 (ii) Submit the annual postconsumer recycled content report to
39 the department in July for the prior calendar year required in
40 section 209 of this act; and

1 (iii) Submit an annual report for the prior calendar year to the
2 department consistent with section 119 of this act by July 1, 2030,
3 and each July 1st thereafter.

4 (b) A producer responsibility organization registering for the
5 first time with the department after July 15, 2027, must:

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

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

12 (iii) Submit a new or revised plan within 60 days after receipt
13 of a letter of disapproval from the department, if applicable;

14 (iv) Implement its plan as approved by the department within six
15 months of approval;

16 (v) Submit the annual postconsumer recycled content report for
17 the prior calendar year required in section 209 of this act; and

18 (vi) Submit an annual report for the prior calendar year to the
19 department consistent with section 119 of this act by July 1st,
20 beginning the first year after plan implementation.

21 (8) Nothing in this chapter requires any individual producer to
22 redesign covered products to reduce waste or to be reusable,
23 recyclable, or compostable, requires any individual covered product
24 to be reusable, recyclable, or compostable, or authorizes the
25 department or a producer responsibility organization to require any
26 individual covered product to be reusable, recyclable, or
27 compostable.

28 (9) Nothing in this chapter or chapter 70A.--- RCW (the new
29 chapter created in section 502 of this act) authorizes the department
30 or a producer responsibility organization to impose any requirement
31 including, but not limited to, a recycled content requirement, in
32 direct conflict with a federal law or regulation, including but not
33 limited to:

34 (a) Laws or regulations covering tamper-evident packaging
35 pursuant to 21 C.F.R. Sec. 211.132;

36 (b) Laws or regulations covering child-resistant packaging
37 pursuant to 16 C.F.R. Sec. 1700.1, et seq.;

38 (c) Regulations, rules, or guidelines issued by the United States
39 department of agriculture or the United States food and drug
40 administration related to packaging agricultural commodities; and

1 (d) Requirements for microbial contamination, structural
2 integrity, or safety of packaging, where no viable recyclable or
3 compostable packaging that can meet the requirements exists, pursuant
4 to:

5 (i) The federal food, drug, and cosmetic act (21 U.S.C. Sec. 301,
6 et seq.);

7 (ii) 21 U.S.C. Sec. 2101, et seq.;

8 (iii) The federal food and drug administration food safety
9 modernization act (21 U.S.C. Sec. 2201, et seq.);

10 (iv) The federal poultry products inspection act (21 U.S.C. Sec.
11 451, et seq.);

12 (v) The federal meat inspection act (21 U.S.C. Sec. 601, et
13 seq.); or

14 (vi) The federal egg products inspection act (21 U.S.C. Sec.
15 1031, et seq.).

16 (10) Nothing in this chapter is intended to grant producers and
17 other entities participating in the distribution chain of covered
18 products under this chapter immunity from federal or state antitrust
19 liability. A producer, producer responsibility organization, or other
20 entity in the distribution chain of covered products is not exempted
21 from state or federal laws prohibiting actions that are considered to
22 be a restraint of trade, a conspiracy, or are otherwise deemed
23 unlawful activities in violation of federal or state antitrust laws.

24 NEW SECTION. **Sec. 104.** DEPARTMENT'S DUTIES. (1) The department
25 must implement, administer, and enforce this chapter. The
26 department's implementation, administration, and enforcement duties
27 under this chapter, including the requirements of this section, are
28 supplemented by the provisions of chapter 70A.--- RCW (the new
29 chapter created in section 502 of this act).

30 (2)(a) By January 31, 2026, and every January 31st thereafter,
31 the department must:

32 (i) Prepare a workload analysis that identifies the projected
33 annual costs to implement, administer, and enforce this chapter and
34 chapter 70A.--- RCW (the new chapter created in section 502 of this
35 act), including rule making, in the next fiscal year;

36 (ii) Determine a total annual fee payment to be paid by each
37 producer responsibility organization that is adequate to cover, but
38 not exceed, the costs identified in (a)(i) of this subsection and the
39 costs of the grant program specified in section 112(7) of this act;

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

5 (iv) By 2027, adopt rules to equitably determine annual fee
6 payments by producer responsibility organizations. Once these rules
7 are adopted, the general order issued under (a)(iii) of this
8 subsection is no longer effective; and

9 (v) Send notice to producer responsibility organizations of fee
10 amounts due consistent with either the general order issued under
11 (a)(iii) of this subsection or rules adopted under (a)(iv) of this
12 subsection.

13 (b) The workload analysis prepared in January 2026 must include
14 contractor costs identified in section 105 of this act. This portion
15 of the fee amounts paid under the general order must be deposited in
16 the account that paid for these costs.

17 (c) The department must:

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

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

26 (3)(a) The department must review new, updated, and revised plans
27 submitted by a producer responsibility organization as required in
28 section 108 of this act. The department must:

29 (i) Make new, updated, and revised plans available for public
30 review and comment for at least 30 days prior to the department's
31 decision;

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

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

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

1 (B) Reasons for not approving a plan. The producer responsibility
2 organization must submit a new or revised plan within 60 days after
3 receipt of the disapproval letter. If a new or revised plan submitted
4 by a producer responsibility organization does not comply, the
5 department may use the enforcement powers specified in section 123 of
6 this act.

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

10 (4) The department must review annual reports submitted by a
11 producer responsibility organization as required in section 119 of
12 this act and under chapter 70A.--- RCW (the new chapter created in
13 section 502 of this act). The department must:

14 (a) Make annual reports available for public review and comment
15 for at least 30 days upon the receipt of the annual report by the
16 department;

17 (b) Review within 120 days of receipt of a complete annual
18 report;

19 (c) Make a determination as to whether or not an annual report
20 meets the requirements of this chapter, taking into consideration
21 comments received under (a) of this subsection, and notify the
22 producer responsibility organization of the:

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

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

27 (d) Notify a producer responsibility organization if the annual
28 report demonstrates that the performance rates will not be achieved
29 or the plan fails to achieve other significant requirements under
30 this chapter.

31 (5) The department must adopt rules as necessary to implement,
32 administer, and enforce this chapter.

33 (6) Except where otherwise provided in this chapter, the
34 department shall seek to adopt rules that are harmonized with the
35 regulatory standards, exemptions, reporting obligations, and other
36 compliance requirements of other states that:

37 (a) Have adopted producer responsibility programs similar to the
38 program established in this chapter; and

1 (b)(i) Are home to producers that supply, or have the potential
2 to supply, significant quantities of covered products to Washington
3 markets; or

4 (ii) To which Washington supplies, or has the potential to
5 supply, significant quantities of covered products.

6 (7) The department must maintain a public website that:

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

10 (b) Identifies any noncompliant producers; and

11 (c) Makes available each plan and annual report received by the
12 department under this chapter.

13 (8) The department must administer the grant program specified in
14 section 112(7) of this act.

15 (9) The department must create a model comprehensive solid waste
16 plan amendment by January 1, 2028, for use by jurisdictions in lieu
17 of updating, amending, or revising a plan consistent with the
18 requirements of RCW 70A.205.045(7)(b)(i).

19 NEW SECTION. **Sec. 105.** STATEWIDE NEEDS ASSESSMENT. (1) To
20 inform program implementation, the department must conduct a
21 statewide needs assessment that must be:

22 (a) Carried out by a third-party consultant selected by the
23 department; and

24 (b) Funded through payments or reimbursements collected from
25 producer responsibility organizations.

26 (2) The statewide needs assessment must:

27 (a) Use the recycling rates from the department's *December 2023*
28 *Washington Recycling, Reuse, and Source Reduction Target Study and*
29 *Community Input Process*;

30 (b) Use information and recommendations from the department's
31 2020 plastic packaging study reports;

32 (c) Use the department's uniform statewide collection lists for
33 covered products established under section 107 of this act;

34 (d) Evaluate what services related to the requirements of this
35 chapter are currently being delivered in each county and city
36 planning under chapter 70A.205 RCW, and what the costs are for those
37 existing services;

38 (e) Evaluate what new or expanded services and infrastructure are
39 needed in each county and city planning under chapter 70A.205 RCW to

1 meet the requirements of this chapter, including the convenience
2 standards established under section 113 of this act and what the
3 anticipated costs are for those additional services and
4 infrastructure;

5 (f) Reference local solid waste management plans;

6 (g) Evaluate what additional actions and investments are needed
7 to meet the requirements of this chapter;

8 (h) Evaluate how the state's recycling system can be managed in a
9 socially just manner. This evaluation must include meaningful
10 consultation with overburdened communities and vulnerable populations
11 and include an assessment and recommendations on the following:

12 (i) Material recovery facility worker conditions, wages, and
13 benefits;

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

16 (iii) Activities that disproportionately negatively impact any
17 community and in particular overburdened communities and vulnerable
18 populations; and

19 (iv) The sufficiency of recycling education and outreach programs
20 relative to desired socially just management outcomes;

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

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

36 (k) Evaluate the actions and investments that will be needed by
37 jurisdictions planning under chapter 70A.205 RCW to update their
38 plans to implement this act; and

39 (l) Any other information the department determines necessary to
40 complete the needs assessment.

1 (3) The first statewide needs assessment must be completed by
2 October 1, 2026, and must be consistent with the following
3 requirements:

4 (a) The final scope of the statewide needs assessment must be
5 determined in consultation with a producer responsibility
6 organization that is registered with the department by June 30, 2025,
7 the advisory council established in section 120 of this act, and the
8 utilities and transportation commission.

9 (b) Prior to completion of the statewide needs assessment:

10 (i) The utilities and transportation commission, the advisory
11 council established in section 120 of this act, and registered
12 producer responsibility organizations must have the opportunity to
13 review and comment on the draft statewide needs assessment;

14 (ii) Each county and city planning under chapter 70A.205 RCW must
15 have an opportunity to review and comment on the portions of the
16 draft statewide needs assessment relevant to the jurisdiction.

17 (4)(a) In consultation with the advisory council established in
18 section 120 of this act, the utilities and transportation commission,
19 and registered producer responsibility organizations, the department
20 may update the statewide needs assessment no sooner than every five
21 years to inform the development of producer responsibility
22 organization plans and performance rates. Any updates must include an
23 evaluation of public place recycling needs at locations that are
24 significant sources of covered product waste and that are additional
25 to those locations identified under section 113 of this act. These
26 additional locations may not include public places and official
27 gatherings at which a local government does not provide solid waste
28 services or retail establishments.

29 (b) The scope of a needs assessment or needs assessment update
30 may be adjusted to modify or omit study elements described under
31 subsection (3) of this section, after consultation with the advisory
32 council, the utilities and transportation commission, and any
33 producer responsibility organization by January 15th of the year in
34 which the statewide needs assessment update is to be conducted.

35 NEW SECTION. **Sec. 106.** PLAN PARTICIPATION OBLIGATION—
36 STAKEHOLDER CONSULTATION FOR PLAN. (1) Each producer of covered
37 products must participate in, implement, and fund a producer
38 responsibility organization plan approved by the department,
39 consistent with the timelines established in sections 103 and 108 of

1 this act, and in accordance with the funding requirements established
2 in section 112 of this act.

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

9 (3) Prior to submitting a new, updated, or revised plan to the
10 department, a producer responsibility organization must conduct a
11 consultation process to directly and actively involve stakeholders in
12 the development of key plan elements. The producer responsibility
13 organization, through the consultation process, must solicit and
14 respond to input and recommendations from the advisory council
15 established in section 120 of this act, the utilities and
16 transportation commission, each jurisdiction planning under chapter
17 70A.205 RCW, and other stakeholders. The consultation process
18 required in advance of the submission of a plan to the department is
19 in addition to the department-led public comment process specified in
20 section 104(4) of this act. At a minimum, the consultation process
21 must include:

22 (a) A public comment period for no less than 60 days prior to its
23 submission to the department;

24 (b) Documentation of all comments received and a summary of
25 responses provided by the producer responsibility organization for
26 purposes of a stakeholder consultation report to be included with the
27 submission of a plan to the department. The stakeholder consultation
28 report must also describe each forum in which comments or input was
29 received and how it was addressed in the plan; and

30 (c) An individualized consultation by the producer responsibility
31 organization, after the completion of the needs assessment in section
32 105 of this act, with each county and city planning under chapter
33 70A.205 RCW, regarding the portions of the plan relevant to that city
34 or county.

35 (4) Each producer responsibility organization must coordinate its
36 plan development and implementation with:

37 (a) Other producer responsibility organizations in the state; and

38 (b) Organizations formed to implement the requirements of
39 chapters 70A.500, 70A.505, 70A.510, 70A.515, 70A.555, and 69.48 RCW.

1 NEW SECTION. **Sec. 107.** UNIFORM STATEWIDE RECYCLING COLLECTION
2 LISTS-PROGRAM PLAN CONTENTS. (1) (a) By October 1, 2025, and no later
3 than 30 days after approving a new, updated, or revised producer
4 responsibility organization plan, the department must identify the
5 materials and methods for uniform statewide recycling collection of
6 covered products. In doing so, the department must distinguish
7 between:

8 (i) Materials determined to be suitable for residential curbside
9 collection;

10 (ii) Materials for drop-off collection; and

11 (iii) Materials for alternative collection only.

12 (b) In determining whether a material is suitable for curbside,
13 drop-off, or alternative collection, the department shall consider:

14 (i) The stability, maturity, accessibility, and viability of
15 responsible end markets;

16 (ii) Environmental health and safety considerations;

17 (iii) The anticipated yield loss for the material during the
18 recycling process;

19 (iv) The material's compatibility with existing recycling
20 infrastructure;

21 (v) The amount of the material available;

22 (vi) The practicalities of sorting and storing the material;

23 (vii) Contamination;

24 (viii) The ability for waste generators to easily identify and
25 properly prepare the material;

26 (ix) Economic factors;

27 (x) Environmental factors from a life-cycle perspective; and

28 (xi) The policy expressed in RCW 70A.205.010.

29 (c) A covered product that is not identified as suitable for
30 residential curbside collection may be temporarily collected as part
31 of a curbside recycling program and qualify for reimbursement if:

32 (i) The covered product is collected as part of a pilot program
33 agreed to by the service provider and the producer responsibility
34 organization;

35 (ii) The pilot program is of limited duration; and

36 (iii) The pilot program is conducted in a limited area.

37 (2) A producer responsibility organization may propose a covered
38 product for addition to the list of materials for uniform statewide
39 recycling collection as part of a producer responsibility
40 organization plan. In considering the addition of a covered product

1 proposed by a producer responsibility organization, the department
2 shall consider the same criteria as those established under
3 subsection (1)(b) of this section.

4 (3) The department must by rule determine the plan contents
5 required to be included in a producer responsibility organization
6 plan. Plan contents must address all aspects of responsibilities
7 assigned to producers and producer responsibility organizations in
8 this chapter and how the producer responsibility organization will
9 carry out activities to fulfill such responsibilities and must
10 provide information about services and other relevant details for
11 each county and city planning under chapter 70A.205 RCW.

12 NEW SECTION. **Sec. 108.** PLAN APPROVAL, UPDATES, AND REVISIONS.

13 (1)(a) The initial plan due to be submitted under section 103(7) of
14 this act, and updated plans, must address five calendar years.

15 (b) A producer responsibility organization must submit an updated
16 plan to the department, one year prior to the expiration of any plan.

17 (c) If the performance rates set in a producer responsibility
18 organization plan have not been met as of the time of plan update,
19 the producer responsibility organization must arrange for an
20 independent evaluation to be conducted of the producer responsibility
21 organization's efforts to implement the plan. The evaluation must
22 provide information for the producer responsibility organization to
23 use to target and improve program outcomes relative to the approved
24 performance rates. The evaluation must be submitted to the department
25 with an updated plan.

26 (d) A producer responsibility organization must carry out the
27 consultation process established in section 106 of this act prior to
28 the submission of each plan and plan update. The consultation process
29 established in section 106 of this act is not required to be carried
30 out by a producer responsibility organization that is submitting a
31 revised plan:

32 (i) In response to an order from the department; or

33 (ii) Subsequent to a letter disapproving of a plan submission by
34 the producer responsibility organization and for which the original
35 plan submitted by the producer responsibility organization had been
36 subject to the consultation process required in section 106 of this
37 act.

38 (2)(a) A producer responsibility organization may choose to
39 update its plan if significant changes have occurred.

1 (b) The department may require a producer responsibility
2 organization to update its plan more frequently than every five years
3 if:

4 (i) The program and activities to implement the plan fail to
5 achieve the performance rates set in producer responsibility
6 organization plans as described in section 111 of this act or
7 otherwise fail to achieve significant requirements under this
8 chapter;

9 (ii) Additional producer responsibility organizations register
10 with the department or receive approval from the department to begin
11 implementing a plan; or

12 (iii) There are significant changes to the regulatory or economic
13 environment in which plan activities are being carried out.

14 NEW SECTION. **Sec. 109.** CONTINGENCY PLAN. (1) A producer
15 responsibility organization must submit to the department a
16 contingency plan demonstrating how the activities in the plan will
17 continue to be carried out by some other entity, if needed, such as
18 an escrow company:

19 (a) Until such time as a new plan is submitted and approved by
20 the department;

21 (b) Upon the expiration of an approved plan;

22 (c) If the producer responsibility organization notifies the
23 department that it will cease to implement an approved plan; or

24 (d) In any other event that the producer responsibility
25 organization can no longer carry out plan implementation.

26 (2) The contingency plan required in this section must be
27 submitted to the department as a component of the producer
28 responsibility organization's initial plan submitted to the
29 department under section 103(7) of this act. The department may
30 require a producer responsibility organization to update the
31 contingency plan required under this section coincident with any plan
32 update under section 108 of this act.

33 (3) The department must follow the same process and timelines for
34 reviewing and approving the contingency plan as it follows for
35 reviewing and approving the producer responsibility organization's
36 plan under section 108 of this act.

37 NEW SECTION. **Sec. 110.** COLLECTION AND MANAGEMENT. (1) Producer
38 responsibility organizations, government entities, and service

1 providers implementing the program must manage covered products in a
2 manner consistent with the state's solid waste management hierarchy
3 established in RCW 70A.205.005.

4 (2) Covered products collected under this chapter must be
5 responsibly managed at facilities operating with human health and
6 environmental protection standards that are broadly equivalent to or
7 better than those required in the United States and other countries
8 that are members of the organization for economic cooperation and
9 development.

10 (3) (a) Owners or operators of a material recovery facility that
11 manages covered products under this chapter must ensure that workers
12 at the facility are paid not less than the prevailing rate of wage
13 for the same trade or occupation, as defined by the department of
14 labor and industries. "Prevailing rate of wage" includes the hourly
15 wage, usual benefits, and overtime paid in the locality as defined in
16 RCW 39.12.010.

17 (b) Counties, cities, and companies that hold an applicable
18 certificate issued by the utilities and transportation commission may
19 only deliver or arrange for the delivery of covered products
20 collected from residences as recyclable material to a material
21 recovery facility that meets the requirements of this section.

22 (4) Producer responsibility organizations implementing a plan
23 must include measures to:

24 (a) Track, verify, and publicly report that the responsible
25 management of covered products collected under this chapter is
26 maintained and that recycled materials are delivered to a responsible
27 end market;

28 (b) Promote and facilitate reuse of covered products;

29 (c) Meet the necessary quality standards for recycled materials
30 so that covered products collected under this chapter may be used to
31 manufacture new products;

32 (d) Prioritize agreements with material recovery facilities
33 handling covered products regarding long-term contracts and other
34 purchase agreements based on fair market pricing for commodities of
35 comparable quality;

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

1 (ii) Describe whether the material recovery facilities or other
2 processing facilities were preexisting, planned, or under
3 construction as of plan approval.

4 (5) (a) Prior to program use of any alternative recycling process
5 for conversion of postuse plastic polymers for the purpose of
6 producing recycled material to be counted toward performance rates
7 under this chapter, the producer responsibility organization must
8 seek the department's approval and submit a third-party assessment of
9 the process's environmental impacts, as described under this
10 subsection. In order for an alternative recycling process to be
11 approved, the department must determine, after considering public
12 comment and input from the advisory council established in section
13 120 of this act, that the alternative recycling process produces
14 similar or lesser negative impacts than those produced in recycling
15 that uses purely mechanical means for each of the following
16 environmental impacts:

17 (i) Air and water pollution and release or creation of any
18 hazardous pollutants;

19 (ii) Energy efficiency and greenhouse gas emissions;

20 (iii) Generation of hazardous waste;

21 (iv) Environmental impacts on overburdened communities and
22 vulnerable populations;

23 (v) Water usage including, but not limited to, impacts to local
24 water resources and sewage infrastructure; and

25 (vi) Other environmental impacts as determined by the department
26 by rule.

27 (b) The results of the assessment under (a) of this subsection
28 must, whenever reported and communicated, provide full disclosure of
29 geographical, temporal, and technological boundaries that have been
30 selected for the assessment.

31 (c) The person preparing the assessment under (a) of this
32 subsection may not be interested, directly or indirectly, in the
33 ownership or operation of any recycling facility proposed to conduct
34 the alternative recycling process under assessment.

35 (d) Nothing in this subsection or chapter prohibits or affects
36 the use of any alternative recycling process for products or
37 packaging that are not covered products under this chapter.

38 (6) (a) Material recovery facilities receiving covered products
39 from government entities or private service providers collected
40 through activities undertaken in accordance with this chapter must

1 measure and report annually to the department by commodity type and
2 material category, in a form and format approved by the department,
3 on the following parameters associated with covered products received
4 and processed:

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

6 (ii) Inbound material quality and contamination;

7 (iii) Outbound material quality and contamination;

8 (iv) Outbound material tons and end markets by commodity type,
9 including whether the end markets are domestic, export to
10 organization for economic cooperation and development countries, or
11 export to facilities in other countries that meet organization for
12 economic cooperation and development operating standards;

13 (v) Management of contaminants and residue to avoid negative
14 impacts on other waste streams or facilities;

15 (vi) Residuals, including residue rate, composition, and disposal
16 location;

17 (vii) Any violations of existing permits, regarding emissions to
18 air and water, and the status of those permit violations; and

19 (viii) Labor metrics including wages, unions, and workforce
20 demographics.

21 (b) All data reported to the department by material recovery
22 facilities under this subsection must, at the request of the
23 department, be audited by an independent third party.

24 (c) The requirements of (a) and (b) of this subsection do not
25 apply to any facility operated by a scrap metal business as defined
26 in RCW 19.290.010 that holds a current scrap metal license unless the
27 covered products handled by such a business were received directly
28 from collection services for which a producer responsibility
29 organization has provided reimbursement.

30 (7) Material recovery facilities and other processing facilities
31 handling materials under this chapter shall prioritize agreements
32 with and on behalf of producers or producer responsibility
33 organizations regarding long-term contracts and other purchase
34 agreements based on fair market pricing for commodities of comparable
35 quality.

36 NEW SECTION. **Sec. 111.** PERFORMANCE RATES. (1) Any producer
37 responsibility organization plan submitted to the department must
38 include performance rates for covered products reported by the
39 producer responsibility organization as supplied into the state,

1 taking into account the findings of the *December 2023 Washington*
2 *Recycling, Reuse, and Source Reduction Target Study and Community*
3 *Input Process*, statewide needs assessment, and additional relevant
4 data. The rates submitted by a producer responsibility organization
5 must be achieved by the end of the plan implementation period.

6 (a) At minimum, the plan must include the following performance
7 rates averages across all covered products within a registered
8 producer responsibility organization:

9 (i) An overall recycling rate of covered products;

10 (ii) Beginning with the second plan, a separate minimum reuse
11 rate of covered products;

12 (iii) A recycling rate for each material category of covered
13 products reported by the producer responsibility organization as
14 supplied into the state; and

15 (iv) A source reduction rate to be achieved solely by eliminating
16 plastic components as long as the elimination of the plastic
17 component does not render the covered material detrimental to
18 recycling or nonrecyclables. This source reduction rate must
19 calculate the amount of covered material the producers have source
20 reduced since January 1, 2013.

21 (b) Proposed rates must demonstrate continuous improvement in
22 performance rates of covered products over time, until the department
23 determines that a maximum level of technically achievable process has
24 been achieved.

25 (c) Proposed rates must adhere to the performance rate
26 calculation methodology established in subsections (2) through (4) of
27 this section.

28 (d) Proposed rates must be justified, if they are different from
29 those recommended in the most recent performance rates study.

30 (2) For the purposes of this chapter, the department must adopt
31 rules for measuring the performance rates of each material category
32 of covered products.

33 (3) To be included in a performance rate calculation for purposes
34 of this chapter, recycled materials must be transferred to a
35 responsible end market.

36 (4) For purposes of calculations of reuse and elimination under
37 this section, a producer responsibility organization must include
38 both the weight and number of units.

1 NEW SECTION. **Sec. 112.** FUNDING REQUIREMENTS. (1) A producer
2 responsibility organization implementing a plan must fully fund all
3 activities required under this chapter.

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

7 (3)(a) A producer responsibility organization must develop a
8 system to collect fees from participating producers to cover the
9 costs of plan implementation. To minimize the administrative and
10 reporting costs of the producers and the organization, the fee system
11 must include a category of small producers, determined by weight of
12 covered products sold into the state, for whom no fees are charged by
13 the producer responsibility organization.

14 (b) The fee system may include:

15 (i) Additional charges applied specifically to producers of
16 postconsumer recycled content products covered by the requirements of
17 chapter 70A.--- RCW (the new chapter created in section 502 of this
18 act), in an amount roughly equivalent to fully cover the producer
19 responsibility organization's costs of implementing its duties under
20 chapter 70A.--- RCW (the new chapter created in section 502 of this
21 act), including funding the oversight of the department; and

22 (ii) An optional flat rate for producers below a certain size.

23 (c) A producer responsibility organization shall allow producers
24 of covered products that are magazines to satisfy their obligations
25 under this section by providing advertisement or publication
26 supporting the education and outreach activities required under
27 section 118 of this act in their magazines, or on their websites in
28 lieu of program fees as long as the value of the advertisement is
29 equivalent to the estimated cost of managing the covered products
30 that are magazines, which are to be determined as described in
31 subsection (4) of this section. The producer responsibility
32 organization may consider the in-state reach of the advertising when
33 determining the value of the advertising.

34 (4) The fee system must include a base rate, based upon the
35 estimated cost of managing the material categories of covered
36 products, while seeking to avoid a material category that subsidizes
37 any other material category. The base rate must be proportional to
38 the costs to the producer responsibility organization for that
39 covered product type, material, or format. In establishing the base

1 rate, a producer responsibility organization must consider the
2 following factors:

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

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

8 (c) The commodity value of each material category as a recycled
9 material.

10 (5) (a) In addition to the base rate charged under subsection (4)
11 of this section, the fee system must use eco-modulation factors to
12 incentivize the use of packaging design attributes that reduce the
13 negative environmental impacts of covered products. The factors must
14 include both positive incentives, including discounted fees, and
15 disincentives, including increased fees. Examples of activities that
16 a fee system may include to satisfy the requirement to use eco-
17 modulation factors include, but are not limited to:

18 (i) Encourage designs that facilitate and improve infrastructure
19 and systems for reuse, recycling, and home and industrial composting,
20 and that achieve reuse, recycling, and home and industrial
21 composting;

22 (ii) Encourage the use of postconsumer recycled content;

23 (iii) Encourage designs that reduce the amount of packaging
24 material used;

25 (iv) Discourage the use of problematic or difficult to recycle
26 materials that increase system costs of managing covered products;
27 and

28 (v) Encourage other design attributes that reduce the climate and
29 other negative environmental impacts of covered products.

30 (b) (i) Any system of program fees under this section that
31 includes discounted fees or favorable treatment of covered products
32 deemed to be reusable must establish a basis for determining that
33 products, in practice, are designed and supported by adequate
34 infrastructure to ensure they are reused multiple times as part of a
35 system of reuse.

36 (ii) Any system of program fees under this section must consider
37 and provide fair treatment to instances in which federal regulations
38 constrain the use of packaging design attributes that reduce the
39 negative environmental impacts of covered products.

1 (c) Fees collected under this fee system must be used exclusively
2 for plan implementation and other activities required under this
3 chapter and chapter 70A.--- RCW (the new chapter created in section
4 502 of this act).

5 (6) If more than one producer responsibility organization is
6 registered within the state, each producer responsibility
7 organization must coordinate with other producer responsibility
8 organizations to provide reimbursement and ensure that government
9 entities and service providers are reimbursed for recycling services
10 as required under this chapter, and to ensure that covered products
11 are not reported as supplied or managed by more than one producer
12 responsibility organization.

13 (7)(a) Each producer responsibility organization must fund,
14 through a fee paid to the department, the costs to the department to
15 establish and implement a packaging financial assistance program to
16 reduce the negative environmental impacts of covered products through
17 reuse. The fee charged to any producer responsibility organization
18 may not exceed:

19 (i) \$5,000,000 each year, beginning with the year of producer
20 responsibility organization registration with the department under
21 section 103 of this act through the year 2028;

22 (ii) Four percent of the three-year average of the organization's
23 annual expenditures, excluding payments of the fee established under
24 this section, as described in the organizations' annual reports
25 submitted under section 119 of this act, beginning in 2029.

26 (b) Fees to administer the packaging financial assistance program
27 collected under this subsection must be deposited in the packaging
28 financial assistance account created in section 128 of this act.

29 (c) Entities eligible for financial assistance include, but are
30 not limited to:

31 (i) Government entities;

32 (ii) Tribal governments;

33 (iii) Nonprofit organizations; and

34 (iv) Private organizations, if the department determines that the
35 money would be used to support the goals of this chapter.

36 (d) In providing financial assistance for programs under this
37 section, the department must consider criteria that includes, but is
38 not limited to:

39 (i) The environmental benefits of the program;

40 (ii) The human health benefits of the program;

- 1 (iii) The social and economic benefits of the program;
2 (iv) The cost-effectiveness of the program; and
3 (v) The needs of economically distressed or overburdened
4 communities.

5 NEW SECTION. **Sec. 113.** CONVENIENCE STANDARDS. (1) In every
6 jurisdiction in which covered products are sold or supplied to
7 consumers, a producer responsibility organization must fund
8 activities to make convenient collection services available for the
9 lists of covered products designated for collection by the department
10 as described in section 107 of this act. Convenient collection
11 services must be available to residents as follows:

12 (a) Curbside collection of materials identified as suitable for
13 residential curbside collection must be provided to residents in
14 single-family and multifamily residences wherever curbside garbage
15 collection services are provided to these entities, except where a
16 county has adopted an ordinance that designates that these materials
17 must be collected exclusively through drop-off locations as allowed
18 in section 114 of this act.

19 (b) Collection of materials identified as suitable for drop-off
20 collection must be provided through free and equitable access to
21 permanent collection facilities that are located, at minimum, at each
22 solid waste transfer, processing, or disposal site, or other drop-off
23 location, or a location demonstrated to the department to be of equal
24 convenience, that existed prior to the effective date of this
25 section.

26 (c) Collection of materials identified as suitable for
27 alternative collection only must be provided through collection
28 services that provide free and equitable access to residents at a
29 minimum:

30 (i) Consistent with the requirements described in (b) of this
31 subsection applicable to materials suitable for drop-off collection;
32 and

33 (ii) In communities that are not covered by a collection location
34 described in (c)(i) of this subsection. A producer responsibility
35 organization, after soliciting and accommodating input from the
36 department, the relevant government entity, and the local community,
37 must determine a reasonable number and location of additional drop-
38 off locations or frequency and location of collection events or
39 services to be provided in underserved areas. A producer

1 responsibility organization must give special consideration for
2 providing opportunities to island and geographically isolated
3 populations.

4 (d) A retail establishment may choose to serve as a drop-off
5 location or as the site of a collection event, or both, through
6 mutual agreement with a producer responsibility organization, but
7 nothing in this chapter requires a retail establishment to serve as a
8 drop-off location or site of a collection event.

9 (e) For the duration of the initial plan implementation term,
10 collection must be provided in the following public places:

11 (i) Any location where government entities provided and managed
12 recycling collection receptacles as of July 1, 2024. The number and
13 location of receptacles may be adjusted to optimize collection based
14 on mutual agreement between the producer responsibility organization
15 and the government entity providing the service; and

16 (ii) At additional locations as determined by the producer
17 responsibility organization, after considering the recommendations of
18 the statewide needs assessment in section 105 of this act and
19 stakeholder consultation in section 106 of this act. Collection in
20 additional locations is subject to mutual agreement by the producer
21 responsibility organization and the government entity or other entity
22 responsible for the public place.

23 (2) In any jurisdiction where collection of source separated
24 recyclable materials from residences is provided by a city or town
25 under the authority of RCW 35.21.120, by a county under the authority
26 of RCW 36.58.040, or by a company that holds an applicable
27 certificate under the authority of chapter 81.77 RCW, a producer
28 responsibility organization must meet its curbside collection service
29 obligation through the curbside collection service in the
30 jurisdiction as described in section 114 of this act.

31 (3) Collection of source separated recyclable materials through
32 drop-off collection, alternative collection, and public place
33 collection must be provided in a manner consistent with the authority
34 of a city or town under RCW 35.21.120, of a county under RCW
35 36.58.040, or under chapter 81.77 RCW. A producer responsibility
36 organization shall contract with existing recycling depots or drop-
37 off center locations, including existing solid waste facilities, to
38 provide for collection of covered products designated for drop off or
39 alternate collection if the existing facility meets all of the
40 following conditions:

1 (a) The operator of the existing recycling depot or drop-off
2 center is willing to contract to provide collection service on behalf
3 of the producer responsibility organization; and

4 (b) The operator of the existing recycling depot or drop-off
5 center commits to meet standards and other requirements to meet goals
6 consistent with this chapter.

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

15 NEW SECTION. **Sec. 114.** GOVERNMENT ENTITIES—AUTHORITY TO COLLECT
16 COVERED PRODUCTS. (1) The provisions of this chapter do not:

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

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

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

26 (2) A city or town that has previously exercised authority under
27 RCW 35.21.120 or a county under RCW 36.58.040 to contract for
28 residential curbside recycling services, where the terms of the
29 contract are legally enforceable as of the effective date of this
30 section, and the contracted service provider shall make reasonable,
31 good faith efforts to negotiate provisions or changes to contract
32 terms consistent with the goals of this chapter, limited to those
33 that pertain to service standards for the purpose of cost
34 reimbursement as described in section 115 of this act, and that do
35 not materially affect other provisions of the contract.

36 (3) (a) A city, town, county, or other government entity may enter
37 into contractual agreements with a producer responsibility
38 organization or organizations for the purposes of reimbursement of

1 costs of services provided in accordance with the requirements of
2 this chapter.

3 (b) A producer responsibility organization must reimburse the
4 government entity for services delivered in accordance with the
5 requirements of this chapter as described in section 115 of this act.

6 (c) A city or town that exercises authority under RCW 35.21.120
7 or a county under RCW 36.58.040 to contract for residential curbside
8 recycling services is not restricted from providing a level of
9 service for curbside collection of source separated recyclable
10 materials from residences that exceeds the service standards for
11 curbside collection included in a producer responsibility
12 organization plan approved by the department, but a producer
13 responsibility organization is not obligated to reimburse costs
14 associated with the additional level of service.

15 (4) Consistent with RCW 81.77.020, where a city or town chooses
16 not to exercise its authority under chapter 35.21 RCW, or a county
17 chooses not to exercise its authority under chapter 36.58 RCW,
18 curbside collection of covered products designated for collection as
19 source separated recyclable materials from residences in areas
20 regulated by the utilities and transportation commission under the
21 provisions of chapter 81.77 RCW must be provided by a company that
22 holds an applicable certificate issued by the utilities and
23 transportation commission.

24 (5) A county may, by ordinance, direct that the full list of
25 materials on the uniform statewide collection list identified as
26 suitable for residential curbside collection be collected exclusively
27 through drop-off locations in areas regulated by the utilities and
28 transportation commission under the provisions of chapter 81.77 RCW
29 if the area was designated as rural in the county solid waste
30 management plan and no curbside recycling collection service was
31 offered within those areas as of the effective date of this section.

32 (6) Government entities are not obligated to provide resident
33 education and outreach under this chapter but may carry out or
34 contract for resident education and outreach consistent with producer
35 responsibility organization plan provisions under section 118 of this
36 act and be reimbursed for the costs of education and outreach
37 performed by the government entity as described in section 115 of
38 this act.

39 (7) A city, town, or county may not enact an ordinance requiring
40 producers of covered products to provide residential recycling

1 services for covered products that are additional to the requirements
2 of this chapter unless producers are not required to fully fund the
3 requirements of this chapter under section 112 of this act.

4 NEW SECTION. **Sec. 115.** COST REIMBURSEMENT FOR SERVICES PROVIDED
5 BY GOVERNMENT ENTITIES. (1) A producer responsibility organization
6 with covered products designated for curbside collection under its
7 plan must provide reimbursement to a government entity that chooses
8 to seek reimbursement for costs incurred in delivering curbside
9 collection services, whether these services are provided directly or
10 through a contracted service provider, or both. Costs that must be
11 reimbursed by a producer responsibility organization include, as
12 applicable, any administrative, planning, public education,
13 collection, transportation, and sorting or processing costs incurred
14 in delivering curbside collection services in accordance with the
15 requirements of this chapter. Reimbursements for curbside collection
16 services must be informed by the costs established in the statewide
17 needs assessment and included in the producer responsibility
18 organization plan approved by the department.

19 (2) If a producer responsibility organization elects to use the
20 services of a government entity for any services included in the
21 producer responsibility organization plan other than curbside
22 collection services, it must provide reimbursement to the government
23 entity. Reimbursement for any services other than curbside collection
24 services may be calculated using reimbursement rates informed by the
25 costs established in the statewide needs assessment and included in
26 the producer responsibility organization plan approved by the
27 department.

28 (3) Any government entity that receives reimbursement for costs
29 incurred in delivering curbside collection services must report or
30 publish reimbursed costs to its residents annually and as part of
31 each rate increase notification required under RCW 35.21.157.

32 NEW SECTION. **Sec. 116.** COST REIMBURSEMENT FOR SERVICES
33 REGULATED BY THE UTILITIES AND TRANSPORTATION COMMISSION. (1) In
34 areas where collection of source separated recyclable materials from
35 residences is regulated by the utilities and transportation
36 commission under chapter 81.77 RCW, a producer responsibility
37 organization must provide reimbursement to the company granted a
38 certificate for each residential customer to whom service is

1 provided. The rate of reimbursement must be in accordance with the
2 rates approved by the commission and in accordance with rules for
3 solid waste collection company reimbursement established by the
4 commission as described in section 306 of this act, including all
5 associated taxes and fees that would be otherwise charged to
6 residential customers directly or indirectly for recycling service.

7 (2) To be eligible for reimbursement from a producer
8 responsibility organization under this section, the company granted a
9 certificate must provide service that:

10 (a) Is offered to residents in single-family and multifamily
11 residences wherever curbside garbage collection services are offered,
12 except in areas subject to an ordinance described in section 114(4)
13 of this act;

14 (b) Includes collection of all covered products designated for
15 curbside collection by the department; and

16 (c) Is provided in a manner consistent with the requirements of
17 chapter 70A.205 RCW for curbside collection services of source
18 separated recyclable materials from residences and with chapter 81.77
19 RCW.

20 (3) A solid waste collection company may include text on service
21 bills indicating that recycling services are being provided at no
22 charge to the customer.

23 NEW SECTION. **Sec. 117.** INFRASTRUCTURE INVESTMENTS. (1) Each
24 producer responsibility organization must fund and support
25 investments in infrastructure and market development in Washington
26 state as needed to achieve the convenience standards specified in
27 section 113 of this act, the management standards specified in
28 section 110 of this act, the performance rates set in producer
29 responsibility organization plans as described in section 111 of this
30 act, or to address infrastructure gaps, as identified through the
31 statewide needs assessment under section 105 of this act and through
32 the consultation process under section 106 of this act. Investments
33 in infrastructure and market development may include, but are not
34 limited to, those needed to enable reuse, recycling, or composting of
35 covered products not currently reused, recycled, or composted, such
36 as:

37 (a) Providing funding for the purchase and installation of new
38 equipment or infrastructure or for upgrades to existing equipment or
39 infrastructure to improve sorting of covered products or mitigating

1 the negative impacts of covered products to other commodities at
2 existing material recovery facilities that accept covered products;

3 (b) Capital expenditures for new technology, equipment, and
4 facilities; and

5 (c) Providing funding for the purchase and installation of new
6 equipment or infrastructure or for upgrades to existing equipment or
7 infrastructure to meet the goals of this chapter for:

8 (i) Solid waste collection companies regulated under chapter
9 81.77 RCW;

10 (ii) Providers of curbside solid waste collection services under
11 a contract with a city under chapter 35.21 RCW or a county under
12 chapter 36.58 RCW; and

13 (iii) A government entity that elects to provide its own curbside
14 collection of source separated recyclable materials from residences.

15 (2) (a) Investments must be detailed in the annual report
16 submitted to the department in the manner specified in section 119 of
17 this act.

18 (b) In meeting the requirements of this section, a producer
19 responsibility organization must prioritize investments in
20 preexisting infrastructure within Washington state.

21 (c) If a producer responsibility organization did not invest in
22 preexisting infrastructure within Washington state, the annual report
23 must include a statement of the reasons why no such investment was
24 made.

25 (3) The direct or indirect receipt of funds from a producer
26 responsibility organization under this chapter does not confer any
27 inherent ownership or interest to the producer responsibility
28 organization in any asset or company to which producer responsibility
29 funds are directed and does not confer any inherent right to control
30 use of any asset or company operations.

31 NEW SECTION. **Sec. 118.** EDUCATION AND OUTREACH. (1) A producer
32 responsibility organization must implement education and outreach
33 activities that effectively reach diverse residents, are accessible,
34 are clear, and support the achievement of the performance rates. A
35 producer responsibility organization must, at minimum:

36 (a) Develop and provide outreach and educational materials,
37 resources, and campaigns that encourage participation in recycling
38 collection and reuse systems and address education and engagement

1 with residents. The outreach and education materials must support
2 recycling and reuse behaviors;

3 (b) Help obtain consistently high levels of public participation
4 in and use of collection services and reuse systems, including where
5 and how to recycle covered products designated for collection, or
6 return or refill reusable covered products;

7 (c) Provide information that helps reduce the rate of inbound
8 contamination or unwanted materials with the aim of reducing resident
9 confusion regarding the end-of-life management options available for
10 different covered products;

11 (d) Use consistent and easy to understand messaging and education
12 statewide;

13 (e) Be conceptually, linguistically, and culturally accurate for
14 the communities served and tailored to effectively reach the state's
15 diverse populations, including through meaningful consultation with
16 overburdened communities and vulnerable populations;

17 (f) Be able to be used by retail establishments, collectors,
18 government entities, and nonprofit organizations;

19 (g) Coordinate and fund the distribution and deployment of
20 statewide promotional campaigns developed under this section through
21 media channels that may include, but are not limited to, print
22 publications, radio, television, the internet, and online streaming
23 services;

24 (h) Establish a process for answering customer questions and
25 resolving customer concerns; and

26 (i) Evaluate the effectiveness of education and outreach efforts
27 for the purposes of making progress toward performance requirements
28 established in this chapter.

29 (2)(a) A producer responsibility organization must coordinate
30 with government entities that choose to participate in carrying out
31 resident education and outreach in accordance with the approach
32 specified in the producer responsibility organization's plan.

33 (b) All producer responsibility organizations implementing a plan
34 approved by the department must collaborate to present a consistent
35 statewide program to ensure that all state residents can easily
36 identify, understand, and access services provided by any approved
37 producer responsibility organization. The department may require
38 producer responsibility organizations to coordinate and use
39 consistent signage and consistent messaging in education and outreach
40 activities under this section.

1 NEW SECTION. **Sec. 119.** ANNUAL REPORT. (1) Beginning July 1,
2 2030, and each July 1st thereafter, a producer responsibility
3 organization must submit an annual report to the department for the
4 preceding calendar year of plan implementation.

5 (2) The annual report must include specified information related
6 to the activities and responsibilities of the producer responsibility
7 organization under this chapter, as determined by the department by
8 rule.

9 (3) (a) The annual report must include the total cost of
10 implementing the plan approved by the department, as determined by an
11 independent financial audit and performed by an independent auditor,
12 including:

13 (i) Information regarding the independently audited financial
14 statements detailing all payments received and issued by the producer
15 responsibility organization covered by the plan approved by the
16 department;

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

18 (iii) A detailed description of how the program compensates
19 government entities, private collection and transportation service
20 providers, material recovery facilities, and other approved entities
21 for services under chapter 70A.--- (the new chapter created in
22 section 502 of this act).

23 (b) Prior to the submission of the annual report, all
24 nonfinancial data and information that is material to the
25 department's review of the program's compliance with the requirements
26 of this chapter must be audited annually by a third party that is a
27 nationally or internationally recognized, independent laboratory or
28 certification body that has received ISO/IEC 17065 accreditation as
29 it existed as of January 1, 2024, or a similar accreditation as
30 determined by the department.

31 (c) Annual independent auditing and verification must:

32 (i) Include documentation of the performance rate calculations;
33 and

34 (ii) Encompass the management of materials from the point of
35 collection through processing and sale of recycled materials to
36 responsible end markets.

37 NEW SECTION. **Sec. 120.** ADVISORY COUNCIL. (1) The advisory
38 council is established.

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

3 (a) Four representatives of local governments representing
4 geographic areas across the state, including two representatives of
5 counties and two representatives of cities, each with one
6 representative of urban communities and one representative of rural
7 communities;

8 (b) One representative of tribal or indigenous solid waste
9 services organizations;

10 (c) One representative of special purpose districts involved in
11 activities related to the end-of-life management of solid waste;

12 (d) Two representatives of community-based organizations whose
13 mission is to serve the interests of overburdened communities and
14 vulnerable populations;

15 (e) Two representatives of environmental nonprofit organizations;

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

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

23 (h) Three representatives of producers of covered products or
24 producer trade associations representing different types of covered
25 products. A member appointed to the advisory council under this
26 subsection may not be a representative or a member of the board of
27 directors of a producer responsibility organization registered with
28 the department under section 103 of this act;

29 (i) Two representatives of packaging suppliers that are not
30 producers as defined under this chapter representing different
31 material categories; and

32 (j) One representative of a retail establishment.

33 (3) Advisory councilmembers must be appointed by the director of
34 the department by January 1, 2025. In appointing members, the
35 department shall:

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

1 (b) Consider recommendations for appointments from relevant
2 represented groups or associations and from individuals interested in
3 participating on the advisory council.

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

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

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

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

19 (6) The advisory council shall meet at least once every three
20 months for the first three years, at times and places specified by
21 the chairperson. The advisory council may also meet at other times
22 and places, including virtually, specified by the call of the
23 chairperson or of a majority of the councilmembers, as necessary, to
24 carry out the duties of the advisory council.

25 (7) (a) The department shall provide staff support and
26 facilitation as necessary for the advisory council to carry out its
27 duties.

28 (b) The department may select an impartial, third-party
29 facilitator to convene and provide administrative support to the
30 advisory council.

31 (8) The duties of the advisory council include the following:

32 (a) Advise and make recommendations to the department on the
33 scope of the statewide needs assessments;

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

36 (c) Review and comment on draft lists developed under section 107
37 of this act and any updates to the collection lists;

38 (d) Advise and make recommendations to any registered producer
39 responsibility organization during stakeholder consultation on plans
40 as required under section 106 of this act;

1 (e) Review and comment on all new and updated plans submitted by
2 a producer responsibility organization to the department, including
3 making recommendations to the department on plan approvals, as part
4 of the public comment period as established under section 104 of this
5 act;

6 (f) Advise and make recommendations to any registered producer
7 responsibility organization on annual reports prior to submission as
8 established in section 119 of this act;

9 (g) Review and comment on all annual reports submitted by
10 producer responsibility organizations to the department, including
11 making recommendations to the department regarding the need for any
12 plan amendments or other recommendations regarding program
13 activities;

14 (h) Provide input, review, and comment on rules proposed by the
15 department under this chapter; and

16 (i) Review the implementation by producers and producer
17 responsibility organizations of their obligations under this chapter
18 and provide comment to the department if the advisory council finds
19 that a producer or producer responsibility organization has not met
20 or is not meeting a requirement under this chapter. The advisory
21 council may submit a request to the department to take the
22 enforcement actions specified in section 123 (1), (2), or (5) of this
23 act.

24 (9) Prior to the submission of a plan or plan update to the
25 department, each producer responsibility organization must submit the
26 plan to the advisory council for review and comment. The producer
27 responsibility organization must address each comment and respond as
28 to whether and how each was incorporated into the plan submitted to
29 the department.

30 (10) Advisory councilmembers that are representatives of tribes
31 or tribal and indigenous services organizations or community-based
32 and environmental nonprofit organizations must, if requested, be
33 compensated and reimbursed in accordance with RCW 43.03.050,
34 43.03.060, and 43.03.220.

35 (11) The department must include costs related to the advisory
36 council in the estimate of annual costs as established in section 104
37 of this act, including costs for:

38 (a) Department resources, including staff time;

39 (b) A third-party facilitator, including related costs; and

1 (c) Expenses related to member participation as established in
2 subsection (10) of this section.

3 NEW SECTION. **Sec. 121.** CONFIDENTIAL INFORMATION SUBMISSION. A
4 producer responsibility organization, material recovery facility, or
5 other processing facility that submits information or records to the
6 department under this chapter or chapter 70A.--- RCW (the new chapter
7 created in section 502 of this act) may request that the information
8 or records be made available only for the confidential use of the
9 department, the director of the department, or the appropriate
10 division of the department. The director of the department must give
11 consideration to the request and if this action is not detrimental to
12 the public interest and is otherwise in accordance with the policies
13 and purposes of chapter 43.21A RCW, the director must grant the
14 request for the information to remain confidential as authorized in
15 RCW 43.21A.160.

16 NEW SECTION. **Sec. 122.** PROHIBITION ON THE USES OF FUNDS BY
17 PRODUCER RESPONSIBILITY ORGANIZATIONS. (1) A producer responsibility
18 organization may not use funds collected for purposes of implementing
19 a plan required under this chapter for costs associated with:

20 (a) The payment of an administrative penalty levied under this
21 chapter;

22 (b) Administrative appeals of orders or penalties issued under
23 this chapter;

24 (c) Litigation between the producer responsibility organization
25 and the state;

26 (d) Compensation of a person whose position is primarily
27 representing the producer responsibility organization relative to the
28 passage, defeat, approval, or modification of legislation that is
29 being considered by a government entity; or

30 (e) Paid advertisements related to encouraging the passage,
31 defeat, or approval, or modification of legislation that is being
32 considered during an upcoming or current legislative session or was
33 considered during the previous legislative session.

34 (2) Nothing in this section limits the authority of a producer
35 responsibility organization to collect funds, such as through a
36 special assessment, for purposes other than implementing a plan
37 required under this chapter, such as for the purposes identified in
38 subsection (1) (a) through (e) of this section.

1 NEW SECTION. **Sec. 123.** ENFORCEMENT AUTHORITY. (1)(a) The
2 department may administratively impose a civil penalty of up to
3 \$1,000 per violation per day on any producer who violates this
4 chapter or on any producer responsibility organization that violates
5 the postconsumer recycled content provisions applicable to producer
6 responsibility organizations under chapter 70A.--- RCW (the new
7 chapter created in section 502 of this act) and up to \$10,000 per
8 violation per day for the second and each subsequent violation.

9 (b) For producers out of compliance with the requirements of this
10 chapter, the department shall provide written notification and offer
11 information to producers in violation of this section. For the
12 purposes of this section, written notification serves as notice of
13 the violation. The department must issue at least one notice of
14 violation by certified mail prior to assessing a penalty and the
15 department may only impose a penalty on a producer that has not met
16 the requirements of this chapter 60 days following the date the
17 written notification of the violation was sent.

18 (2) Upon the department notifying a producer responsibility
19 organization that the producer responsibility organization has not
20 met a significant requirement of this chapter or chapter 70A.--- RCW
21 (the new chapter created in section 502 of this act), the department
22 may, in addition to assessing the penalties provided in subsection
23 (1) of this section, take any combination of the following actions:

24 (a)(i) Issue corrective action orders to a producer or producer
25 responsibility organization;

26 (ii) Issue orders to a producer responsibility organization to
27 provide for the continued implementation of the program in the
28 absence of an approved plan;

29 (b) Revoke the producer responsibility organization's plan
30 approval and require the producer responsibility organization to
31 implement its contingency plan under section 109 of this act;

32 (c) Require a producer responsibility organization to revise or
33 resubmit a plan within a specified time frame; or

34 (d) Require additional reporting related to compliance with the
35 significant requirement of this chapter that was not met.

36 (3) Prior to taking the actions described in subsection (2)(b) of
37 this section, the department must provide the producer responsibility
38 organization or the producer an opportunity to respond to or rebut
39 the written finding upon which the action is predicated.

1 (4) A person may not sell or distribute in or into the state a
2 covered product of a producer that is not participating in a producer
3 responsibility organization or that is not in compliance with the
4 requirements of this chapter or rules adopted under this chapter.

5 (5) The department shall serve, or send with delivery
6 confirmation, a written warning explaining the violation to a person
7 distributing or selling covered products in or into the state of a
8 producer that is not participating in a producer responsibility
9 organization or that is not in compliance with this chapter or rules
10 adopted under this chapter.

11 (6) The department may assess a penalty on a person that
12 continues to sell or distribute covered products of a producer that
13 is not participating in an approved producer responsibility
14 organization 60 days after receipt of the written warning under
15 subsection (5) of this section. The amount of the penalty that the
16 department may assess under this subsection is twice the value of the
17 covered products sold in violation of this chapter or \$500, whichever
18 is greater. The department must waive the penalty upon verification
19 that the person has discontinued distribution or sales of the covered
20 product within 30 days of the date the penalty is assessed.

21 (7) Any person who incurs a penalty under subsection (1) or (6)
22 of this section or an order under subsection (2) of this section may
23 appeal the penalty or order to the pollution control hearings board
24 established in chapter 43.21B RCW.

25 (8) Penalties levied under this section must be deposited in the
26 recycling enhancement account created in RCW 70A.245.100.

27 (9) Upon receipt of a request from the advisory council
28 established in section 120 of this act, the department must consider
29 the appropriateness of the use of enforcement authority authorized in
30 this section.

31 NEW SECTION. **Sec. 124.** TRUTH IN LABELING. (1) Beginning January
32 1, 2028, a producer may not offer for sale, sell, or distribute in or
33 into Washington, including by means of remote sale, any covered
34 product under this chapter, certified PCRC product under chapter
35 70A.245 RCW, or PCRC product under chapter 70A.--- RCW (the new
36 chapter created in section 502 of this act) that makes a deceptive or
37 misleading claim about its recyclability, percentage of recycled
38 content, or, consistent with chapter 70A.455 RCW, its ability to be
39 composted.

1 (a) A covered product, certified PCRC product, or PCRC product
2 that displays a chasing arrows symbol, a chasing arrows symbol
3 surrounding a resin identification code, or any other symbol or
4 statement indicating that it is recyclable is deemed to be deceptive
5 or misleading unless it is designated for collection by the
6 department as described in section 107 of this act.

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

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

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

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

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

22 (b) In the plan submitted under section 107 of this act, a
23 producer responsibility organization must outline guidance to
24 producers for compliance with the requirements of this section.

25 (3) Beginning August 1, 2024, a city, town, or county may not
26 enforce an ordinance restricting the distribution or sale of covered
27 products, certified PCRC products, or PCRC products due to displaying
28 a chasing arrows symbol, a chasing arrows symbol surrounding a resin
29 identification code, or any other symbol or statement indicating that
30 it is recyclable if the covered product is, at the time that the
31 claim is made:

32 (a) Designated for collection by the department as described in
33 section 107 of this act;

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

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

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

1 NEW SECTION. **Sec. 125.** OTHER ASSISTANCE PROGRAMS. Nothing in
2 this act 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. 126.** 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 and
7 chapter 70A.--- RCW (the new chapter created in section 502 of this
8 act), except those specified for deposit in the recycling enhancement
9 account created in RCW 70A.245.100 and those specified for deposit in
10 the packaging financial assistance account created in section 128 of
11 this act, must be deposited in the account. Only the director of the
12 department or the director's designee may authorize expenditures from
13 the account. The account is subject to the allotment procedures under
14 chapter 43.88 RCW, but an appropriation is not required for
15 expenditures. Expenditures from the account may be used by the
16 department only for implementing, administering, and enforcing the
17 requirements of this chapter and chapter 70A.--- RCW (the new chapter
18 created in section 502 of this act).

19 NEW SECTION. **Sec. 127.** PETITION FOR THE EXCLUSION OF CERTAIN
20 PRODUCTS. (1) Prior to the submission of a new or updated plan under
21 section 107 of this act, the department may review and determine for
22 the duration of the upcoming plan's period of applicability whether
23 to temporarily exclude for reasons of public health and safety from
24 the requirements of this chapter, except as provided in subsection
25 (5) of this section, packaging used to contain the following
26 categories of products, subcategories of the following categories of
27 products, or individual products that are:

28 (a) Regulated under the poison prevention packaging act of 1970;
29 and

30 (b) Other products subject to requirements under federal laws
31 that make their inclusion in the requirements of this chapter
32 infeasible or inadvisable.

33 (2) The department's review may be initiated by the department or
34 upon a petition by a producer, group of producers, or producer
35 responsibility organization. The department may specify the date by
36 which a petition must be filed under subsection (1) of this section
37 in order to be considered timely for purposes of an upcoming plan
38 implementation period.

1 (3) In making a determination to temporarily exclude a category
2 of products, subcategory of products, or individual product pursuant
3 to subsection (1) of this section, the department must consider, at a
4 minimum, all of the following factors:

5 (a) The technical feasibility of including the category of
6 product, subcategory of product, or individual product in the program
7 created by this chapter, and in recycling the packaging of the
8 product or products; and

9 (b) The progress made by producers of products, categories of
10 products, or subcategories of products in achieving the goals of this
11 chapter, including by reducing the amount of packaging used with the
12 products, increasing the recycled content of the product packaging,
13 and increasing the ability of the products' packaging to be reused or
14 recycled if appropriate.

15 (4) The petition process established in this section is distinct
16 from the processes pertaining to adjustments and exclusions to
17 postconsumer recycled content requirements in section 210 of this
18 act. A product that is temporarily excluded under this section
19 remains subject to postconsumer recycled content requirements
20 established in chapter 70A.--- RCW (the new chapter created in
21 section 502 of this act) unless a petition is separately granted by
22 the department for a product under section 210 of this act.

23 (5) The producer of a product that is temporarily excluded from
24 the requirements of this chapter under this section must report,
25 directly to the department in a form and manner prescribed by the
26 department, the information related to the temporarily excluded
27 product that is required to be reported to the department by producer
28 responsibility organizations under sections 103 and 119 of this act.

29 NEW SECTION. **Sec. 128.** PACKAGING FINANCIAL ASSISTANCE ACCOUNT.

30 The packaging financial assistance account is created in the custody
31 of the state treasury. All receipts received by the department under
32 section 112(7) of this act must be deposited in the account. Only the
33 director of the department or the director's designee may authorize
34 expenditures from the account. The account is subject to the
35 allotment procedures under chapter 43.88 RCW, but an appropriation is
36 not required for expenditures. Expenditures from the account must be
37 used by the department only for implementing and administering the
38 packaging financial assistance program established in section 112(7)
39 of this act.

1 **Part Two**

2 **Postconsumer Recycled Content Requirements**

3 NEW SECTION. **Sec. 201.** DEFINITIONS. The definitions in this
4 section and section 102 of this act apply throughout this chapter
5 unless the context clearly requires otherwise.

6 (1) (a) "Beverage" means liquid products intended for human or
7 animal consumption and in a quantity more than or equal to two fluid
8 ounces and less than or equal to one gallon, including:

9 (i) Water and flavored water;

10 (ii) Beer or other malt beverages;

11 (iii) Wine;

12 (iv) Distilled spirits;

13 (v) Mineral water, soda water, and similar carbonated soft
14 drinks;

15 (vi) Dairy milk; and

16 (vii) Any other beverage identified by the department by rule.

17 (b) "Beverage" does not include infant formula as defined in 21
18 U.S.C. Sec. 321(z), medical food as defined in 21 U.S.C. Sec.
19 360ee(b)(3), or fortified oral nutritional supplements used for
20 persons who require supplemental or sole source nutritional needs due
21 to special dietary needs directly related to cancer, chronic kidney
22 disease, diabetes, or other medical conditions as determined by the
23 department.

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

26 (3) "Brand" means a name, symbol, word, logo, or mark that
27 identifies an item and attributes the item and its components,
28 including packaging, to the brand owner of the item as the producer.

29 (4) "Dairy milk" means a beverage made exclusively or principally
30 from lacteal secretions obtained from one or more milk-producing
31 animals. Dairy milk includes, but is not limited to:

32 (a) Whole milk, low-fat milk, skim milk, cream, half-and-half, or
33 condensed milk; or

34 (b) Cultured or acidified milk, kefir, or eggnog.

35 (5) "De minimis producer" means an entity that annually sells,
36 offers for sale, distributes, or imports:

37 (a) In or into the country for sale in Washington state less than
38 one ton of PCRC products specified in subsection (18)(a)(i) through
39 (vi) of this section; or

1 (b) That have a global gross revenue of less than \$5,000,000 for
2 the most recent fiscal year of the organization.

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

4 (7) "Durable good" means a product that provides utility over an
5 extended period of time.

6 (8) "Entity" means an individual and any form of business
7 enterprise. For purposes of calculating the de minimis producer
8 thresholds under this chapter, a producer entity includes all legal
9 entities that are affiliated by common ownership of 50 percent or
10 greater, including parents, subsidiaries, and commonly owned
11 affiliates.

12 (9) "Household" means all of the people who occupy a residential
13 property regardless of their relationship to one another.

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

17 (11) "Household cleaning products" means products labeled,
18 marketed, or otherwise indicating that the purpose of the product is
19 to clean, freshen, or remove unwanted substances, such as dirt,
20 stains, and other impurities from objects, interior or exterior
21 structures, vehicles, possessions, and environments associated with a
22 household. These items include:

23 (a) Liquid soaps, laundry soaps, detergents, softeners, surface
24 polishes, and stain removers;

25 (b) Textile cleaners, carpet and pet cleaners, and treatments; or

26 (c) Other products used to clean or freshen areas associated with
27 a household.

28 (12) "Licensee" means a manufacturer of a PCRC product or entity
29 who licenses a brand and manufactures a PCRC product under that
30 brand.

31 (13) "Personal care product" means a product intended or marketed
32 for use to be rubbed, poured, sprinkled, or sprayed on, introduced
33 into, or otherwise applied to the human body for cleansing,
34 beautifying, promoting attractiveness, or altering the appearance
35 including:

36 (a) Shampoo, conditioner, styling sprays and gels, and other hair
37 care products;

38 (b) Lotion, moisturizer, facial toner, and other skin care
39 products;

40 (c) Liquid soap and other body care products; or

1 (d) Other products used to maintain, improve, or enhance personal
2 care or appearance.

3 (14)(a) "Plastic beverage container" means a bottle or other
4 rigid container that is solely made of plastic material and is
5 capable of maintaining its shape when empty, comprised of one or
6 multiple plastic resins designed to contain a beverage. "Plastic
7 beverage container" includes a container's cap or lid, beginning
8 January 1, 2026.

9 (b) "Plastic beverage container" does not include:

10 (i) Reusable beverage containers, such as containers that are
11 sufficiently durable for multiple rotations of their original or
12 similar purpose and are intended to function in a system of reuse;

13 (ii) Rigid plastic containers or plastic bottles that are or are
14 used for medical devices, medical products that are required to be
15 sterile, drugs, or dietary supplements as defined in RCW 82.08.0293
16 that do not contain a "nutrition facts" label required under federal
17 law;

18 (iii) Bladders or pouches that contain a beverage;

19 (iv) Paper-based beverage containers; or

20 (v) Liners, corks, closures, labels, and other items added
21 externally or internally but otherwise separate from the structure of
22 the bottle or container, other than a lid or cap.

23 (15)(a) "Plastic household cleaning and personal care product
24 container" means a bottle, jug, tub, tube, or other rigid container
25 with:

26 (i) A minimum capacity of eight fluid ounces or its equivalent
27 volume;

28 (ii) A maximum capacity of five fluid gallons or its equivalent
29 volume;

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

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

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

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

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

39 (ii) Rigid plastic containers or plastic bottles that are medical
40 devices, medical products that are required to be sterile,

1 prescription or nonprescription drugs, and dietary supplements as
2 defined in RCW 82.08.0293, and packaging used for those products; and

3 (iii) Pesticide products regulated by the federal insecticide,
4 fungicide, and rodenticide act, 7 U.S.C. Sec. 136 et seq. that are in
5 direct contact with the regulated product. This exemption does not
6 include products regulated by the United States food and drug
7 administration.

8 (16)(a) "Plastic tub" means a wide-mouth rigid container used to
9 package consumable or durable goods that reach consumers, with a
10 maximum capacity of 50 ounces, that is:

11 (i) Capable of maintaining its shape when empty;

12 (ii) Comprised solely of one or multiple plastic resins and
13 designed to contain a product; and

14 (iii) Sealed with tamper-proof film or a detachable lid capable
15 of multiple openings and closures.

16 (b) "Plastic tub" does not include:

17 (i) Household cleaning and personal care products;

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

22 (iii) Thermoform plastic containers;

23 (iv) Single-use plastic cups; and

24 (v) Other covered products subject to minimum PCRC requirements.

25 (17)(a)(i) "Postconsumer recycled content" or "PCRC" means the
26 certified plastic resin incorporated into plastic packaging for a
27 PCRC product and derived specifically from recycled material
28 generated by households or by commercial or institutional facilities
29 in their role as end users of packaged products that can no longer be
30 used for their intended purpose.

31 (ii) "PCRC" includes returns of material from the distribution
32 chain.

33 (b) "PCRC" does not include plastic from preconsumer or
34 industrial plastic manufacturing sources.

35 (18)(a) "Postconsumer recycled content product" or "PCRC product"
36 means an item in one of the following categories subject to minimum
37 PCRC requirements under this chapter:

38 (i) Household cleaning products that use plastic household
39 cleaning product containers;

- 1 (ii) Personal care products that use personal care product
2 containers;
- 3 (iii) Beverages that use plastic beverage containers;
- 4 (iv) Plastic tubs for food products;
- 5 (v) Thermoform plastic containers; and
- 6 (vi) Single-use plastic cups.

7 (b) "PCRC product" does not include any type of container or bag
8 for which the state is preempted from regulating content of the
9 container material under federal law or any items subject to the
10 postconsumer recycled content requirements of chapter 70A.245 RCW.

11 (19)(a) "Producer" means the following person responsible for
12 compliance with requirements under this chapter for a PCRC product
13 sold, offered for sale, or distributed in or into this state:

14 (i) If the item is sold in or with packaging under the brand of
15 the item manufacturer or is sold in packaging that lacks
16 identification of a brand, the producer is the person that
17 manufactures the item;

18 (ii) If there is no person to which (a)(i) of this subsection
19 applies, the producer is the person that is licensed to manufacture
20 and sell or offer for sale to consumers in this state an item with
21 packaging under the brand or trademark of another manufacturer or
22 person;

23 (iii) If there is no person to which (a)(i) or (ii) of this
24 subsection applies, the producer is the brand owner;

25 (iv) If there is no person described in (a)(i), (ii), or (iii) of
26 this subsection within the United States, the producer is the person
27 who is the importer of record for the item into the United States for
28 use in a commercial enterprise that sells, offers for sale, or
29 distributes the item in this state;

30 (v) If there is no person described in (a)(i) through (iv) of
31 this subsection, the producer is the person that first distributes
32 the item in or into this state;

33 (vi) A person is a "producer" of a PCRC product sold, offered for
34 sale, or distributed in or into this state, as defined in (a)(i)
35 through (v) of this subsection, except where another person has
36 mutually signed an agreement with a producer as defined in (a)(i)
37 through (v) of this subsection that contractually assigns
38 responsibility to the person as the producer, and the person has
39 joined a registered producer responsibility organization as the
40 responsible producer for that PCRC product under this chapter. In the

1 event that another person is assigned responsibility as the producer
2 under this subsection, the producer under (a)(i) through (v) of this
3 subsection must provide written certification of that contractual
4 agreement to the producer responsibility organization; or

5 (vii) If the producer described in (a)(i) through (v) of this
6 subsection is a business operated wholly or in part as a franchise,
7 the producer is the franchisor, if that franchisor has franchisees
8 that have a commercial presence within 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.

15 (20) "Producer responsibility organization" has the same meaning
16 as defined in section 102 of this act.

17 (21) "Responsible producer" means a producer that is not a de
18 minimis producer.

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

23 (b) "Retail establishment" includes, but is not limited to, food
24 service businesses as defined in RCW 70A.245.010, grocery stores,
25 department stores, hardware stores, home delivery services,
26 pharmacies, liquor stores, restaurants, catering trucks, convenience
27 stores, or other retail stores or vendors, including temporary stores
28 or vendors at farmers markets, street fairs, and festivals.

29 (23)(a) "Single-use plastic cup" means all beverage cups that are
30 nonsealed or sealed at point of sale.

31 (b) "Single-use plastic cups" do not include:

32 (i) Commercially or home compostable cups;

33 (ii) Expanded polystyrene cups;

34 (iii) Thermoform plastic containers; or

35 (iv) Composite plastic-lined fiber cups.

36 (24)(a) "Thermoform plastic container" means a clear or colored
37 plastic container, such as a clamshell, lid, tray, egg carton,
38 trifold, or similar rigid, nonbottle packaging, formed from sheets of
39 extruded plastic resin and used to package consumable or durable
40 goods that reach consumers, including:

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

5 (ii) Containers that may be filled at the point of sale at a
6 retail establishment; and

7 (iii) Unfilled containers that are sold directly.

8 (b) "Thermoform plastic container" includes:

9 (i) Hinged plastic containers, commonly known as "clamshells" or
10 "blister packaging";

11 (ii) Two-piece unhinged containers;

12 (iii) One-piece containers without lids, such as trays; and

13 (iv) Trifold or tent containers with one or more hinges and a
14 flat bottom.

15 (c) "Thermoform plastic container" does not include:

16 (i) Household cleaning products or personal care products;

17 (ii) Plastic tubs;

18 (iii) Reusable containers;

19 (iv) A lid or seal of a different material type from plastic;

20 (v) A reusable thermoform plastic container that ordinarily would
21 be returned to the manufacturer to be refilled and resold;

22 (vi) Plastic containers that are or are used for medical devices,
23 medical products that are required to be sterile, prescription or
24 nonprescription drugs, or dietary supplements as defined in RCW
25 82.08.0293;

26 (vii) Commercially or home compostable containers;

27 (viii) Other PCRC products; and

28 (ix) Thermoform plastic containers accompanying a durable good
29 when the durable good model, and the associated packaging, was
30 designed prior to January 1, 2029.

31 NEW SECTION. **Sec. 202.** DE MINIMIS PRODUCERS. (1) For purposes
32 of determining whether a producer is a de minimis producer, the
33 weight and revenue definitional thresholds must be calculated at the
34 level of the "entity" associated with the PCRC product by a producer
35 responsibility organization.

36 (2) The exemptions under this chapter for de minimis producers do
37 not apply to entities that have agreed to accept responsibility for
38 compliance with the requirements of this chapter for a PCRC product
39 on the behalf of another producer.

1 (3) (a) De minimis producers are not required to meet annual
2 registration, reporting, PCRC, or fee requirements of PCRC products
3 under this chapter.

4 (b) De minimis producers must annually notify the producer
5 responsibility organization in which the producer participates to
6 demonstrate that they are de minimis producers.

7 (4) A producer responsibility organization may demand from
8 participating producers and must submit to the department information
9 necessary to verify whether a producer qualifies for the de minimis
10 status, including:

11 (a) Annual global gross revenue dollar amount less than or equal
12 to \$5,000,000;

13 (b) Annual total resin weight less than or equal to one ton; and

14 (c) Any additional information requested by the department.

15 NEW SECTION. **Sec. 203.** PCRC REQUIREMENTS FOR PCRC PRODUCTS.

16 (1)(a) By January 1, 2026, and each January 1st thereafter, a
17 producer responsibility organization under chapter 70A.--- RCW (the
18 new chapter created in section 501 of this act) that represents
19 producers who offers for sale, sells, or distributes in or into
20 Washington PCRC products must register with the department on behalf
21 of each producer registered with the producer responsibility
22 organization with sale or distribution of PCRC products in or into
23 Washington. A producer must continue to register and report to the
24 department under the methods established in chapter 70A.245 RCW, as
25 it existed as of January 1, 2024, until a producer responsibility
26 organization registers with the department under chapter 70A.--- RCW
27 (the new chapter created in section 501 of this act), after which
28 time each producer of PCRC products must either join a registered
29 producer responsibility organization and comply with the requirements
30 of this chapter through that producer responsibility organization, or
31 must register with the department as an individual producer
32 responsibility organization for purposes of compliance with chapter
33 70A.--- RCW (the new chapter created in section 501 of this act) and
34 this chapter.

35 (b) The registration information submitted under (a) of this
36 subsection must include a list of the producers of PCRC products and
37 the associated brand names of the PCRC products represented in the
38 registration submittal.

1 (2) Producers that offer for sale, sell, or distribute in or into
2 Washington the following products must meet the following minimum
3 postconsumer recycled content requirements:

4 (a) Beginning January 1, 2023, producers of beverages other than
5 wine in 187 milliliter plastic beverage containers and dairy milk in
6 plastic beverage containers must meet minimum PCRC requirements
7 established under section 204 of this act.

8 (b) Beginning January 1, 2025, producers of household cleaning
9 products or personal care products in plastic household cleaning
10 product containers or plastic personal care product containers must
11 meet minimum PCRC requirements as required under section 205 of this
12 act.

13 (c) Beginning January 1, 2027, producers of plastic tubs used for
14 food products must meet minimum PCRC requirements established under
15 section 206 of this act.

16 (d) Beginning January 1, 2028, producers of wine in 187
17 milliliter plastic beverage containers or dairy milk in plastic
18 beverage containers must meet minimum PCRC requirements established
19 under section 204 of this act.

20 (e) Beginning January 1, 2029, producers of single-use plastic
21 cups must meet minimum PCRC requirements established under section
22 207 of this act.

23 (f) Beginning January 1, 2031, producers of thermoform plastic
24 containers, except those containing durable goods, must meet minimum
25 PCRC requirements established under section 208 of this act.

26 (g) Beginning January 1, 2036, producers of durable goods in
27 thermoform plastic containers must meet minimum PCRC requirements
28 established under section 208 of this act.

29 (3)(a) In addition to the registration information submitted
30 under subsection (1) of this section, each producer of a PCRC product
31 must annually report PCRC to the producer responsibility organization
32 with which it is registered, beginning on the following dates:

33 (i) No later than 30 days after the registration of a producer
34 with a producer responsibility organization under subsection (1)(a)
35 of this section, for plastic beverage containers other than plastic
36 dairy milk containers and 187 milliliter plastic wine containers;

37 (ii) February 1, 2026, for plastic household cleaning product
38 containers and plastic personal care product containers;

39 (iii) February 1, 2027, for plastic tubs used for food products;

1 (iv) February 1, 2029, for plastic dairy milk containers and 187
2 milliliter plastic wine containers;

3 (v) February 1, 2030, for single-use plastic cups;

4 (vi) February 1, 2032, for thermoform plastic containers except
5 those containing durable goods; and

6 (vii) February 1, 2037, for thermoform plastic containers
7 containing durable goods.

8 (b) Producer PCRC annual reports to the producer responsibility
9 organization must include:

10 (i) The amount in pounds of virgin plastic and the amount in
11 pounds of PCRC by resin type used within a single PCRC product
12 category sold, offered for sale, or distributed in or into
13 Washington;

14 (ii) The total PCRC resin as a percentage of the total weight of
15 plastic reported for a single PCRC product category, or other metrics
16 approved by the department; and

17 (iii) Any additional information adopted by rule by the
18 department.

19 (4)(a) A producer responsibility organization shall evaluate the
20 PCRC requirements in sections 204 (1)(c) and (2)(c), 205(3), 206(2),
21 207 (1)(b) and (2)(b), and 208 (1)(b) and (2)(a) of this act, and
22 assess market conditions and PCRC availability and the technological
23 feasibility of these requirements, no later than six months prior to
24 the dates identified in those subsections. The producer
25 responsibility organization may request an extension of these
26 requirements and must present data, from the evaluation performed
27 under this subsection, to the department. The department may grant
28 the extension of the implementation of one or more of these
29 requirements for up to one year.

30 (b) The department shall review the extension request from the
31 producer responsibility organization within 30 days of the request
32 and approve, partially approve, deny, or request additional
33 information to evaluate the extension request.

34 (c) The department may renew an approved extension annually, upon
35 request of the producer responsibility organization and submission of
36 data demonstrating that the conditions justifying the current
37 extension remain in place.

38 (d) If an extension is granted, the producer responsibility
39 organization may include in its annual report, or the department may

1 report to the legislature, any potential need to revise these
2 requirements, prior to the expiration of a one-year extension period.

3 NEW SECTION. **Sec. 204.** PCRC REQUIREMENTS FOR PLASTIC BEVERAGE
4 CONTAINERS. A producer of a beverage in a plastic beverage container
5 must meet the following annual minimum PCRC percentage on average for
6 the total quantity of plastic beverage containers, by weight, that
7 are sold, offered for sale, or distributed in or into Washington by
8 the producer effective:

9 (1) For beverages except wine in 187 milliliter plastic beverage
10 containers and dairy milk:

11 (a) January 1, 2023, through December 31, 2025: No less than 15
12 percent PCRC plastic by weight;

13 (b) January 1, 2026, through December 31, 2030: No less than 25
14 percent PCRC plastic by weight; and

15 (c) On and after January 1, 2031: No less than 50 percent PCRC
16 plastic by weight.

17 (2) For wine in 187 milliliter plastic beverage containers and
18 dairy milk:

19 (a) January 1, 2028, through December 31, 2030: No less than 15
20 percent PCRC plastic by weight;

21 (b) January 1, 2031, through December 31, 2035: No less than 25
22 percent PCRC plastic by weight; and

23 (c) On and after January 1, 2036: No less than 50 percent PCRC
24 plastic by weight.

25 NEW SECTION. **Sec. 205.** PCRC REQUIREMENTS FOR HOUSEHOLD CLEANING
26 PRODUCTS AND PERSONAL CARE PRODUCTS. A producer of household cleaning
27 products in plastic containers or a producer of personal care
28 products in plastic containers must meet the following annual minimum
29 PCRC percentage on average for the total quantity of plastic
30 containers, by weight, that are sold, offered for sale, or
31 distributed in or into Washington by the producer effective:

32 (1) January 1, 2025, through December 31, 2027: No less than 15
33 percent PCRC plastic by weight;

34 (2) January 1, 2028, through December 31, 2030: No less than 25
35 percent PCRC plastic by weight; and

36 (3) On and after January 1, 2031: No less than 50 percent PCRC
37 plastic by weight.

1 NEW SECTION. **Sec. 206.** PCRC REQUIREMENTS FOR PLASTIC TUBS FOR
2 FOOD PRODUCTS. A producer of plastic tubs must meet the following
3 annual minimum PCRC percentage on average for the total quantity of
4 plastic tubs used for food products, by weight, that are sold,
5 offered for sale, or distributed in or into Washington by the
6 producer effective:

7 (1) January 1, 2027, through December 31, 2030: No less than 10
8 percent PCRC plastic by weight; and

9 (2) On and after January 1, 2031: No less than 30 percent PCRC
10 plastic by weight.

11 NEW SECTION. **Sec. 207.** PCRC REQUIREMENTS FOR SINGLE-USE PLASTIC
12 CUPS. A producer of single-use plastic cups must meet the following
13 annual minimum PCRC percentage on average for the total quantity of
14 single-use plastic cups, by weight, that are sold, offered for sale,
15 or distributed in or into Washington by the producer effective:

16 (1) For polypropylene single-use plastic cups:

17 (a) January 1, 2029, through December 31, 2030: No less than 15
18 percent PCRC plastic by weight; and

19 (b) On and after January 1, 2031: No less than 25 percent PCRC
20 plastic by weight.

21 (2) For polyethylene terephthalate and polystyrene, and other
22 types of single-use plastic cups:

23 (a) January 1, 2029, through December 31, 2030: No less than 20
24 percent PCRC plastic by weight; and

25 (b) On and after January 1, 2031: No less than 30 percent PCRC
26 plastic by weight.

27 NEW SECTION. **Sec. 208.** PCRC REQUIREMENTS FOR THERMOFORM PLASTIC
28 CONTAINERS. A producer of a thermoform plastic container must meet
29 the following annual minimum PCRC percentage on average for the total
30 quantity of thermoform plastic containers, by weight, that are sold,
31 offered for sale, or distributed in or into Washington by the
32 producer effective:

33 (1) For packaging for consumable goods:

34 (a) January 1, 2031, through December 31, 2035: No less than 10
35 percent PCRC plastic by weight; and

36 (b) On and after January 1, 2036: No less than 30 percent PCRC
37 plastic by weight.

1 (2) (a) Except as provided in (b) of this subsection, for
2 packaging used for durable goods: On and after January 1, 2036, no
3 less than 30 percent PCRC plastic by weight.

4 (b) Packaging designed to accompany a durable good where that
5 durable good model is designed prior to the effective date of the
6 requirement in (a) of this subsection is exempt.

7 NEW SECTION. **Sec. 209.** PCRC REPORTING BY PRODUCER
8 RESPONSIBILITY ORGANIZATIONS. (1) A producer responsibility
9 organization reporting to the department under this chapter must pay
10 fees as specified in chapter 70A.--- RCW (the new chapter created in
11 section 501 of this act).

12 (2) Beginning July 1, 2026, and each July 1st thereafter, a
13 producer responsibility organization must annually report to the
14 department for each producer of PCRC products for which it receives
15 reports from producers under section 203 of this act:

16 (a) The amount in pounds of virgin plastic resin;

17 (b) The amount in pounds of PCRC by resin type used for each
18 category of covered products that are sold, offered for sale, or
19 distributed in or into Washington;

20 (c) The total PCRC resins as a percentage of total weight;

21 (d) Pounds of imported PCRC by country of origin;

22 (e) Any other information necessary to fulfill the intent of this
23 chapter, as required by rule adopted by the department.

24 (3) (a) The report must be submitted in a format and manner
25 prescribed by the department. A producer may submit national or
26 regional data allocated on a per capita basis for Washington to
27 approximate the information required in this section if the producer
28 or third-party representative demonstrates to the department that
29 state level data are not available or feasible to generate.

30 (b) (i) A producer must maintain a certificate of compliance
31 stating that the covered product is in compliance with postconsumer
32 requirements under this chapter. No later than six months prior to
33 the initial effective dates of the requirements of sections 203
34 through 208 of this act, a producer responsibility organization shall
35 evaluate if there are adequate and commercial feasible third-party
36 certifications for PCRC for each covered product category with
37 requirements and report to the department on the adequacy of these
38 certifications with a recommendation for their adoption. The
39 department shall have 30 days to respond to the producer

1 responsibility organization to approve, partially approve, deny, or
2 request additional information on their recommendation.

3 (ii) If adequate third-party certifications are deemed to exist
4 by the producer responsibility organization and the department, the
5 certificate of compliance must be conducted by a third-party
6 certification entity, stating that the covered product is in
7 compliance with postconsumer recycled content requirements under this
8 chapter. A third-party certification entity must be an independent,
9 accredited (ISO/IEC 17065) certifying body. A producer shall maintain
10 a certificate of compliance within a year by the dates on which the
11 postconsumer recycled content requirements take effect for the
12 producer's PCRC products.

13 (iii) If no adequate third-party certifications are deemed to
14 exist by the producer responsibility organization and the department,
15 the department may request a producer responsibility organization to
16 reevaluate the availability of certification programs at a future
17 time.

18 (c) If compliance with minimum recycled content requirements is
19 achieved through an adjustment or temporary exclusion made pursuant
20 to section 210 of this act, the certificate must state the specific
21 basis upon which the adjustment or temporary exclusion is claimed.

22 (d) The certificate of compliance must be kept on file by the
23 producer for three years from the date of the last sale or
24 distribution by the producer.

25 (e) A producer must furnish a certificate of compliance to the
26 department upon request within 60 days.

27 (f) Requests from a member of the public for any certificate of
28 compliance must be made in writing to the department and must be
29 specific as to the PCRC product information requested. The department
30 must respond to requests from a member of the public under this
31 subsection within 90 days.

32 (g) If a person is required under any other state statute,
33 including chapter 70A.222 RCW, to provide a certificate of
34 compliance, one certificate may be developed containing all required
35 information.

36 (h) If the producer of the PCRC product reformulates or creates a
37 new PCRC product, the producer shall develop an amended or new
38 certificate of compliance for the reformulated or new PCRC product.

39 (4) (a) A producer responsibility organization may, as part of the
40 annual report submitted to the department under this section, or as a

1 separate submission in advance of the effective dates in sections 204
2 through 208 of this act, petition for an exclusion or adjustment
3 under section 210 of this act covering the upcoming calendar year to
4 the minimum PCRC requirements on behalf of producers registered with
5 the producer responsibility organization.

6 (b) When submitting a petition for a PCRC rate adjustment, the
7 producer responsibility organization must provide necessary
8 information that will allow the department to make a determination
9 based on the factors listed in section 210(2) of this act.

10 (c) When submitting a petition for a PCRC rate temporary
11 exclusion, the producer responsibility organization must provide
12 necessary information that will allow the department to make a
13 determination based on the factors listed in section 210(4) of this
14 act.

15 (5) The department must review and determine whether to approve
16 PCRC reports under this section and petitions under section 210 of
17 this act submitted by producer responsibility organizations. The
18 department must:

19 (a) Make PCRC reports submitted under this section, including
20 petitions for exclusions or rate adjustments under section 210 of
21 this act regardless of the timing of petition submission, available
22 for public review and comment for at least 30 days upon the receipt
23 of the annual report or petition by the department;

24 (b) Make a determination as to whether or not an annual report
25 meets the requirements of this section or a separately submitted
26 petition meets the requirements of section 210 of this act and notify
27 the producer responsibility organization of the:

28 (i) Determination of approval of the PCRC annual report or a
29 separately submitted petition for a rate adjustment or temporary
30 exclusion; or

31 (ii) Reasons for not approving the PCRC annual report or
32 separately submitted petition. The producer responsibility
33 organization must submit a revised PCRC annual report within 60 days
34 after receipt of the letter of disapproval.

35 (6) The department must post approved PCRC annual reports or a
36 separately submitted petition submitted by each producer
37 responsibility organization under this section on its website.

38 NEW SECTION. **Sec. 210.** ADJUSTMENTS AND TEMPORARY EXCLUSIONS TO
39 PCRC RATES. (1) The department may review and determine for the

1 following calendar year whether to adjust the minimum PCRC percentage
2 required for a type of container or PCRC product or category of PCRC
3 products under this chapter.

4 (2) In making a determination pursuant to subsection (1) of this
5 section, the department must consider, at a minimum, all of the
6 following factors:

7 (a) Changes in market conditions, including supply and demand for
8 PCRC plastics, collection rates, and bale availability both
9 domestically and globally;

10 (b) Recycling rates;

11 (c) The availability of recycled plastic suitable to meet the
12 minimum PCRC requirements, including the availability of high quality
13 recycled plastic, and food-grade recycled plastic from recycling
14 programs;

15 (d) The capacity of recycling or processing infrastructure;

16 (e) The technical feasibility of achieving the minimum PCRC
17 requirements in covered products that are regulated under 21 C.F.R.,
18 chapter I, subchapter G, 7 U.S.C. Sec. 136, 15 U.S.C. Sec. 1471-1477,
19 49 C.F.R. Sec. 178.33b, 49 C.F.R. Sec. 173, 40 C.F.R. Sec. 152.10, 15
20 U.S.C. Sec. 1261-1278, 49 U.S.C. Sec. 5101 et seq., 49 C.F.R. Sec.
21 178.509, 49 C.F.R. Sec. 179.522, 49 C.F.R. Sec. 178.600-609, and
22 other federal laws; and

23 (f) The progress made by producers in achieving the goals of this
24 chapter.

25 (3)(a) Under this section, the department may not adjust the
26 minimum PCRC requirements above the minimum PCRC percentages under
27 sections 204, 206, 207, and 208 of this act for the year under
28 review.

29 (b) For plastic household cleaning product containers and plastic
30 personal care product containers, the department may not adjust the
31 minimum PCRC requirements above the minimum PCRC percentages for the
32 year under review required pursuant to section 205 of this act or
33 below a minimum of 10 percent.

34 (4) A producer responsibility organization may submit a petition
35 to the department for the following:

36 (a) Adjustment of the minimum PCRC percentage required for a type
37 of container or PCRC product or category of PCRC products under this
38 chapter providing credible evidence as outlined in subsection (2) of
39 this section;

1 (b) Temporary exclusion from minimum PCRC requirements for the
2 upcoming year for any types of PCRC products in plastic containers
3 providing credible evidence that the producer cannot achieve the PCRC
4 requirements and remain in compliance with applicable rules and
5 regulations adopted by the United States food and drug
6 administration, or any other state or federal law, rule, or
7 regulation; or

8 (c) Achievement of PCRC requirements in the container material is
9 not technologically feasible.

10 (5) A producer responsibility organization must continue to
11 provide producer registration data and report consistent with the
12 requirements of this chapter for PCRC products temporarily excluded
13 from minimum PCRC requirements under this subsection.

14 (6) A producer or producer responsibility organization may appeal
15 a decision by the department to adjust PCRC percentages under this
16 section or to temporarily exclude covered products from minimum PCRC
17 requirements under subsection (4) of this section to the pollution
18 control hearings board within 30 days of the department's
19 determination.

20 NEW SECTION. **Sec. 211.** ADMINISTRATIVE ROLE AND ENFORCEMENT BY
21 THE DEPARTMENT. (1)(a) A producer that does not pay fees, register,
22 report, or achieve the PCRC requirements established under this
23 chapter is subject to the penalties provided in this section.

24 (b) A producer responsibility organization that does meet the
25 registration, fee payment, or reporting requirements under this
26 chapter is subject to the provisions provided in section 123 of this
27 act.

28 (2)(a) A producer assessed a penalty pursuant to this chapter
29 must remit the penalty to the producer responsibility organization
30 with which it is registered. A producer responsibility organization
31 must submit aggregated penalty payments comprised of the remitted
32 penalty payments from all producers owing penalties under this
33 chapter that are members of the producer responsibility organization.
34 The producer responsibility organization's aggregated payment may be
35 a single annual payment, paid in quarterly installments, or on an
36 alternative payment schedule arranged subject to the approval of the
37 department. The department may not approve an alternative payment
38 schedule that exceeds a 12-month time frame unless the department
39 determines that an extension is needed due to unforeseen

1 circumstances, such as a public health emergency, state of emergency,
2 or natural disaster.

3 (b) Beginning June 1st of the year following the first year that
4 minimum PCRC requirements apply to a category of PCRC product, and
5 annually thereafter, the department must determine the penalty for
6 the previous calendar year based on the PCRC requirement of the
7 previous calendar year. The department shall calculate the amount of
8 the penalty based upon the amount in pounds in the aggregate of
9 virgin plastic, PCRC plastic, and any other plastic per category used
10 by the producer to produce PCRC products sold or offered for sale in
11 or into Washington, in accordance with the following:

12 (i)(A) Based on data provided in the annual report submitted
13 under section 209 of this act by a producer responsibility
14 organization, the annual penalty amount assessed to a producer must
15 equal the product of both of the following: The total pounds of
16 plastic used per category multiplied by the relevant minimum PCRC
17 plastic target percentage, less the pounds of total plastic
18 multiplied by the percent of PCRC plastic used; multiplied by 20
19 cents.

20 (B) Example: [(Total pounds of plastic used x minimum PCRC
21 plastic target percentage) - (Total pounds of plastic used x PCRC
22 plastic percentage used)] x 20 cents.

23 (ii) For the purposes of (b)(i) of this subsection, both of the
24 following apply:

25 (A) The total pounds of plastic used must equal the sum of the
26 amount of virgin plastic, PCRC plastic, and any other plastic used by
27 the producer, as reported pursuant to section 209 of this act;

28 (B) If the mathematical product calculated pursuant to (b)(i) of
29 this subsection is equal to or less than zero, the department may not
30 assess a penalty.

31 (3)(a) Upon request by a producer responsibility organization,
32 the department must consider granting a reduction of penalties
33 assessed under this section for a producer's failure to achieve PCRC
34 requirements established in this chapter. Penalty reduction requests
35 under this subsection must be submitted to the department by August
36 1st of each year. A producer responsibility organization's request to
37 the department must contain sufficient information described in (b)
38 of this subsection to allow the department to determine whether to
39 grant the request.

1 (b) In determining whether to grant a penalty reduction, the
2 department must consider, at minimum, all of the following factors:

- 3 (i) Anomalous market conditions;
4 (ii) Disruption in, or lack of supply of, recycled plastics; and
5 (iii) Other factors that have prevented a producer from meeting
6 the minimum PCRC requirements of this chapter.

7 (c) In lieu of or in addition to assessing a penalty under this
8 section, the department may require a producer responsibility
9 organization to submit on behalf of a producer or group of producers
10 a corrective action plan detailing how the producer or producers plan
11 to come into compliance with this chapter.

12 (4) For purposes of determining compliance with the PCRC
13 requirements of this chapter, the department may consider information
14 provided by the producer responsibility organization regarding the
15 date of manufacture of a PCRC product or the container of a PCRC
16 product.

17 (5) (a) A producer or a producer responsibility organization may
18 appeal penalties assessed and orders issued under this chapter to the
19 pollution control hearings board within 30 days of penalty assessment
20 or order issuance.

21 (b) Penalties collected under this section must be deposited in
22 the recycling enhancement account created in RCW 70A.245.100.

23 (6) (a) A city, town, county, or municipal corporation may not
24 implement local recycled content requirements for a PCRC product that
25 is subject to minimum PCRC requirements established in this chapter.

26 (b) A city, town, county, or municipal corporation may establish
27 local purchasing requirements that include recycled content standards
28 that exceed the minimum recycled content requirements established by
29 this chapter for plastic household cleaning product containers and
30 plastic personal care product containers purchased by a city, town,
31 or municipal corporation, or its contractor.

32 (7) In-state distributors, wholesalers, and retail establishments
33 in possession of PCRC products manufactured before the date that PCRC
34 requirements become effective may exhaust their existing stock
35 through sales to the public.

36 NEW SECTION. **Sec. 212.** RULE-MAKING AUTHORITY. The department
37 may adopt rules as necessary to implement, administer, and enforce
38 this chapter.

1 **Sec. 213.** RCW 70A.245.010 and 2021 c 313 s 2 are each amended to
2 read as follows:

3 The definitions in this section apply throughout this chapter
4 unless the context clearly requires otherwise.

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

9 (a) Water and flavored water;

10 (b) Beer or other malt beverages;

11 (c) Wine;

12 (d) Distilled spirits;

13 (e) Mineral water, soda water, and similar carbonated soft
14 drinks; and

15 (f) Any beverage other than those specified in (a) through (e) of
16 this subsection, except infant formula as defined in 21 U.S.C. Sec.
17 321(z), medical food as defined in 21 U.S.C. Sec. 360ee(b)(3), or
18 fortified oral nutritional supplements used for persons who require
19 supplemental or sole source nutritional needs due to special dietary
20 needs directly related to cancer, chronic kidney disease, diabetes,
21 or other medical conditions as determined by the department.

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

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

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

32 (i) Plastic trash bags;

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

35 (iii) Beverages that use plastic beverage containers.

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

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

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

5 (7) "Expanded polystyrene" means blown polystyrene and expanded
6 and extruded foams that are thermoplastic petrochemical materials
7 utilizing a styrene monomer and processed by any number of techniques
8 including (~~(, but not limited to,)~~) fusion of polymer spheres
9 (expandable bead polystyrene), injection molding, foam molding, and
10 extrusion-blow molding (extruded foam polystyrene).

11 (8) "Food service business" means a business selling or providing
12 food for consumption on or off the premises, and includes full-
13 service restaurants, fast food restaurants, cafes, delicatessens,
14 coffee shops, grocery stores, vending trucks or carts, home delivery
15 services, delivery services provided through an online application,
16 and business or institutional cafeterias.

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

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

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

26 (b) Household cleaning products;

27 (c) Liquid soap;

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

30 (e) Lotion, moisturizer, facial toner, and other skin care
31 products.

32 (11) "Household cleaning and personal care product manufacturing
33 industry" means an association that represents companies that
34 manufacture household cleaning and personal care products.

35 (12) "Licensee" means a manufacturer of a certified PCRC product
36 or entity who licenses a brand and manufactures a covered product or
37 certified PCRC product under that brand.

38 (13) "Oral nutritional supplement" means a manufactured liquid,
39 powder capable of being reconstituted, or solid product that contains
40 a combination of carbohydrates, proteins, fats, fiber, vitamins, and

1 minerals intended to supplement a portion of a patient's nutrition
2 intake.

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

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

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

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

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

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

21 (i) A minimum capacity of eight fluid ounces or its equivalent
22 volume;

23 (ii) A maximum capacity of five fluid gallons or its equivalent
24 volume;

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

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

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

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

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

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

38 (16) "Plastic trash bag" means a bag that is made of
39 noncompostable plastic, is at least 0.70 mils thick, and is designed
40 and manufactured for use as a container to hold, store, or transport

1 materials to be discarded or recycled, and includes, but is not
2 limited to, a garbage bag, recycling bag, lawn or leaf bag, can liner
3 bag, kitchen bag, or compactor bag. "Plastic trash bag" does not
4 include any compostable bags meeting the requirements of chapter
5 70A.455 RCW. "Plastic trash bag" does not include any reusable
6 plastic carryout bag meeting the requirements of RCW
7 70A.530.020(6)(b).

8 (17) (~~"Plastic trash bag"~~) "Certified PCRC product manufacturing
9 industry" means an association that represents companies that
10 manufacture (~~plastic trash bags~~) a certified PCRC product.

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

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

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

25 ~~(ii) If the covered product is manufactured by a person other~~
26 ~~than the brand owner, the producer is the person who is the licensee~~
27 ~~of a brand or trademark under which a covered product is sold,~~
28 ~~offered for sale, or distributed in or into this state, whether or~~
29 ~~not the trademark is registered in this state, unless the~~
30 ~~manufacturer or brand owner of the covered product has agreed to~~
31 ~~accept responsibility under this chapter; or~~

32 ~~(iii) If there is no person described in (a)(i) and (ii) of this~~
33 ~~subsection over whom the state can constitutionally exercise~~
34 ~~jurisdiction, the producer is the person who imports or distributes~~
35 ~~the covered product in or into the state)) or certified PCRC product
36 sold, offered for sale, or distributed in or into this state:~~

37 (i) If the product is sold in or with packaging under the brand
38 of the item manufacturer or is sold in packaging that lacks
39 identification of a brand, the producer is the person that
40 manufactures the product;

1 (ii) If there is no person to which (a)(i) of this subsection
2 applies, the producer is the person that is licensed to manufacture
3 and sell or offer for sale to consumers in this state an item with
4 packaging under the brand or trademark of another manufacturer or
5 person;

6 (iii) If there is no person to which (a)(i) or (ii) of this
7 subsection applies, the producer is the brand owner;

8 (iv) If there is no person described in (a)(i), (ii), or (iii) of
9 this subsection within the United States, the producer is the person
10 who is the importer of record for the item into the United States for
11 use in a commercial enterprise that sells, offers for sale, or
12 distributes the product in this state; or

13 (v) If there is no person described in (a)(i) through (iv) of
14 this subsection, the producer is the person that first distributes
15 the item in or into this state.

16 (b)(i) A person is a "producer" of a covered product or certified
17 PCRC product sold, offered for sale, or distributed in or into this
18 state, as defined in (a)(i) through (v) of this subsection, except
19 where another person has mutually signed an agreement with a producer
20 as defined in (a)(i) through (v) of this subsection that
21 contractually assigns responsibility to the person as the producer,
22 and the person has joined a registered producer responsibility
23 organization as the responsible producer for that covered product or
24 certified PCRC product under this chapter. In the event that another
25 person is assigned responsibility as the producer under this
26 subsection, the producer under (a)(i) through (v) of this subsection
27 must provide written certification of that contractual agreement to
28 the producer responsibility organization;

29 (ii) If the producer described in (a)(i) through (v) of this
30 subsection is a business operated wholly or in part as a franchise,
31 the producer is the franchisor, if that franchisor has franchisees
32 that have a commercial presence within the state.

33 ~~((b))~~ (c) "Producer" does not include:

34 (i) Government agencies, municipalities, or other political
35 subdivisions of the state;

36 (ii) Registered 501(c)(3) charitable organizations and 501(c)(4)
37 social welfare organizations; or

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

1 ~~(A) Less than one ton of a single category of plastic beverage~~
2 ~~containers, plastic household cleaning and personal care containers,~~
3 ~~or plastic trash bags each year; or~~

4 ~~(B) A single category of a covered product that in aggregate~~
5 ~~generates less than \$1,000,000 each year in revenue)) For covered~~
6 ~~products, de minimis producers as defined in section 102 of this act.~~

7 (20) (a) "Retail establishment" means any person, corporation,
8 partnership, business, facility, vendor, organization, or individual
9 that sells or provides merchandise, goods, or materials directly to a
10 customer.

11 (b) "Retail establishment" includes, but is not limited to, food
12 service businesses, grocery stores, department stores, hardware
13 stores, home delivery services, pharmacies, liquor stores,
14 restaurants, catering trucks, convenience stores, or other retail
15 stores or vendors, including temporary stores or vendors at farmers
16 markets, street fairs, and festivals.

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

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

23 (22) "Certified postconsumer recycled content product" or
24 "certified PCRC product" means:

25 (a) Plastic household cleaning products or personal care
26 products, as defined in section 201 of this act, that are pesticide
27 products regulated by the federal insecticide, fungicide, and
28 rodenticide act, 7 U.S.C. Sec. 136 et seq., that are in direct
29 contact with the regulated product, and that are excluded from the
30 requirements of chapters 70A.--- (the new chapter created in section
31 501 of this act) and 70A.--- RCW (the new chapter created in section
32 502 of this act);

33 (b) Plastic trash bags; and

34 (c) Plastic plant pots or trays.

35 (23) "Plant pot or tray" means a single-use or durable container,
36 material transport tray, or water collection tray used to grow,
37 contain, cultivate, display, or transport plants or soil.

38 **Sec. 214.** RCW 70A.245.020 and 2021 c 313 s 3 are each amended to
39 read as follows:

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

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

7 (ii) Plastic trash bags must meet minimum postconsumer recycled
8 content requirements established under subsection ~~((+6+))~~ (7) of this
9 section.

10 (b) Beginning January 1, 2025, producers that offer for sale,
11 sell, or distribute in or into Washington household cleaning and
12 personal care products in plastic household cleaning and personal
13 care product containers must meet minimum postconsumer recycled
14 content as required under subsection ~~((+5+))~~ (6) of this section.

15 ~~((+c) Beginning January 1, 2028, producers that offer for sale,
16 sell, or distribute in or into Washington wine in 187 milliliter
17 plastic beverage containers or dairy milk in plastic beverage
18 containers must meet minimum postconsumer recycled content as
19 required under subsection (4) of this section.))~~

20 (2) (a) On or before April 1, 2022, and annually thereafter until
21 a producer responsibility organization takes on such duties under
22 chapter 70A.--- RCW (the new chapter created in section 502 of this
23 act) on March 1, 2026, a producer that offers for sale, sells, or
24 distributes in or into Washington covered products must register with
25 the department individually or through a third-party representative
26 registering on behalf of a group of producers.

27 (b) The registration information submitted to the department
28 under this section must include a list of the producers of covered
29 products and the brand names of the covered products represented in
30 the registration submittal. Beginning April 1, 2024, for plastic
31 trash bags and plastic beverage containers other than wine in 187
32 milliliter plastic beverage containers and dairy milk in plastic
33 beverage containers, ~~((April 1, 2026, for plastic household and
34 personal care product containers, and April 1, 2029, for wine in 187
35 milliliter plastic beverage containers and dairy milk,))~~ a producer
36 may submit registration information at the same time as the
37 information submitted through the annual reporting required under RCW
38 70A.245.030.

39 (3) (a) By January 31, 2022, and every January 31st ~~((thereafter))~~
40 until January 31, 2026, the department must:

1 (i) Prepare an annual workload analysis for public comment that
2 identifies the annual costs it expects to incur to implement,
3 administer, and enforce this section and RCW 70A.245.030 through
4 70A.245.060 and 70A.245.090 (1), (2), and (4), including rule making,
5 in the next fiscal year for each category of covered products;

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

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

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

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

24 (b) The department must:

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

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

31 (c) By April 1, 2022, and every April 1st thereafter until April
32 1, 2025, producers or their third-party representative must submit a
33 fee payment as determined by the department under (a) of this
34 subsection.

35 (4) A producer of a beverage in a plastic beverage container must
36 meet the following annual minimum postconsumer recycled content
37 percentage on average for the total quantity of plastic beverage
38 containers, by weight, that are sold, offered for sale, or
39 distributed in or into Washington by the producer effective:

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

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

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

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

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

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

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

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

18 (5) A producer of household cleaning and personal care products
19 in plastic containers must meet the following annual minimum
20 postconsumer recycled content percentage on average for the total
21 quantity of plastic containers, by weight, that are sold, offered for
22 sale, or distributed in or into Washington by the producer effective
23 January 1, 2025, through December 31, 2026: No less than 15 percent
24 postconsumer recycled content plastic by weight.

25 (6) A producer of household cleaning (~~and~~) or plastic personal
26 care products that are pesticide products regulated by the federal
27 insecticide, fungicide, and rodenticide act, 7 U.S.C. Sec. 136 et
28 seq. and that are excluded from the requirements of chapters 70A.---
29 (the new chapter created in section 501 of this act) and 70A.--- RCW
30 (the new chapter created in section 502 of this act) in plastic
31 containers that are in direct contact with the regulated product must
32 meet the following annual minimum postconsumer recycled content
33 percentage on average for the total quantity of plastic containers,
34 by weight, that are sold, offered for sale, or distributed in or into
35 Washington by the producer effective:

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

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

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

3 ~~((6))~~ (7) A producer of plastic trash bags must meet the
4 following annual minimum postconsumer recycled content percentage on
5 average for the total quantity of plastic trash bags, by weight, that
6 are sold, offered for sale, or distributed in or into Washington by
7 the producer effective:

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

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

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

14 ~~((7)(a) Beginning January 1, 2024, or when rule making is
15 complete, whichever is sooner, the department may, on an annual basis
16 on January 1st,))~~ (8) A producer of plastic plant pots or trays must
17 meet the following annual minimum postconsumer recycled content
18 percentage on average for the total quantity of plastic plant pots or
19 trays, by weight, that are sold, offered for sale, or distributed in
20 or into Washington by the producer effective:

21 (a) January 1, 2026, through December 31, 2030: No less than 30
22 percent postconsumer recycled content plastic by weight;

23 (b) On and after January 1, 2031: No less than 80 percent
24 postconsumer recycled content plastic by weight.

25 (9)(a) By October 31st of each year, the department may review
26 and determine for the following year whether to adjust the minimum
27 postconsumer recycled content percentage required for a type of
28 container or product or category of covered products pursuant to
29 ((subsection (4), (5), or (6) of)) this section. The department's
30 review may be initiated by the department or at the petition of a
31 producer or a covered product or certified PCRC product manufacturing
32 industry not more than once annually. Petitions for review and
33 adjustment must be made to the department by June 30th of the year
34 prior to the year in which the adjustment would apply. When
35 submitting a petition, producers or ~~((a producer))~~ the covered
36 product or certified PCRC product manufacturing industry must provide
37 necessary information that will allow the department to make a
38 determination under (b) of this subsection.

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

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

4 (ii) Recycling rates;

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

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

11 (v) The technical feasibility of achieving the minimum
12 postconsumer recycled content requirements in covered products that
13 are regulated under 21 C.F.R., chapter I, subchapter G, 7 U.S.C. Sec.
14 136, 15 U.S.C. Sec. 1471-1477, 49 C.F.R. Sec. 178.33b, 49 C.F.R. Sec.
15 173, 40 C.F.R. Sec. 152.10, 15 U.S.C. Sec. 1261-1278, 49 U.S.C. 5101
16 et seq., 49 C.F.R. Sec. 178.509, 49 C.F.R. Sec. 179.522, 49 C.F.R.
17 Sec. 178.600-609, and other federal laws; and

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

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

21 (i) (~~The~~) Except as provided in (c)(ii) and (iii) of this
22 subsection, the department may not adjust the minimum postconsumer
23 recycled content requirements above the minimum postconsumer recycled
24 content percentages for the year under review required pursuant to
25 (~~subsection (4), (5), or (6) of~~) this section.

26 (ii) For plastic household cleaning and personal care product
27 containers, the department may not adjust the minimum postconsumer
28 recycled content requirements above the minimum postconsumer recycled
29 content percentages for the year under review required pursuant to
30 subsection (~~(4)~~) (6) of this section or below a minimum of 10
31 percent.

32 (iii) For plastic trash bags, the department may not adjust the
33 minimum postconsumer recycled content requirements above the minimum
34 postconsumer recycled content percentages for the year under review
35 required pursuant to (~~subsection (6) of~~) this section or below the
36 minimum percentage required in (~~subsection (6)(a) of~~) this section.

37 (d) A producer or the covered product or certified PCRC product
38 manufacturing industry (~~for a covered product~~) may appeal a
39 decision by the department to adjust postconsumer recycled content
40 percentages under (a) of this subsection or to temporarily exclude

1 covered products from minimum postconsumer recycled content
2 requirements (~~(under subsection (8) of this section)~~) to the
3 pollution control hearings board within 30 days of the department's
4 determination.

5 ~~((8))~~ (10) The department must temporarily exclude from minimum
6 postconsumer recycled content requirements for the upcoming year any
7 types of covered products in plastic containers for which a producer
8 annually demonstrates to the department by December 31st of a given
9 year that the achievement of postconsumer recycled content
10 requirements in the container material is not technically feasible in
11 order to comply with health or safety requirements of federal law,
12 including the federal laws specified in subsection ~~((7))~~ (9) (b) (v)
13 of this section. A producer must continue to register and report
14 consistent with the requirements of this chapter for covered products
15 temporarily excluded from minimum postconsumer recycled content
16 requirements under this subsection.

17 ~~((9))~~ (11) A producer that does not achieve the postconsumer
18 recycled content requirements established under this section or does
19 not comply with the labeling requirements established in RCW
20 70A.245.060 is subject to penalties established in RCW 70A.245.040.

21 ~~((10))~~ (12) (a) A city, town, county, or municipal corporation
22 may not implement local recycled content requirements for ~~((a covered~~
23 ~~product that is))~~ certified PCRC products or covered products that
24 are subject to minimum postconsumer recycled content requirements
25 established in this section.

26 (b) A city, town, county, or municipal corporation may establish
27 local purchasing requirements that include recycled content standards
28 that exceed the minimum recycled content requirements established by
29 this chapter for ~~((plastic household cleaning and personal care~~
30 ~~product containers or plastic trash bags))~~ certified PCRC products or
31 covered products purchased by a city, town, or municipal corporation,
32 or its contractor.

33 ~~((11) The department may enter into contracts for the services~~
34 ~~required to implement this chapter and related duties of the~~
35 ~~department.~~

36 ~~(12))~~ (13) In-state distributors, wholesalers, and retailers in
37 possession of ~~((covered products))~~ certified PCRC products or covered
38 products manufactured before the date that postconsumer recycled
39 content requirements become effective may exhaust their existing
40 stock through sales to the public.

1 **Sec. 215.** RCW 70A.245.030 and 2021 c 313 s 4 are each amended to
2 read as follows:

3 (1) (a) Except as provided in (b) (~~and (c)~~) of this subsection,
4 (~~beginning~~) on April 1, 2024, April 1, 2025, and April 1, 2026,
5 each producer of covered products, individually or through a third
6 party representing a group of producers, must provide an annual
7 report to the department that includes the amount in pounds of virgin
8 plastic and the amount in pounds of postconsumer recycled content by
9 resin type used for each category of covered products that are sold,
10 offered for sale, or distributed in or into Washington state,
11 including the total postconsumer recycled content resins as a
12 percentage of total weight. The report must be submitted in a format
13 and manner prescribed by the department. A manufacturer may submit
14 national data allocated on a per capita basis for Washington to
15 approximate the information required in this subsection if the
16 producer or third-party representative demonstrates to the department
17 that state level data are not available or feasible to generate.

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

21 (c) (~~The requirements of (a) of this subsection apply to wine in~~
22 ~~187 milliliter plastic beverage containers and dairy milk in plastic~~
23 ~~beverage containers beginning April 1, 2029.~~

24 ~~(d)~~) The department must post the information reported under
25 this subsection on its website, except as provided in subsection (2)
26 of this section.

27 (d) A plastic trash bag producer must develop a certificate of
28 compliance within one year of the beginning of postconsumer recycled
29 content requirements applicable to a plastic trash bag, conducted by
30 a third-party certification entity, stating that a plastic trash bag
31 is in compliance with the labeling requirements of RCW 70A.245.060
32 and the postconsumer recycled content requirements of RCW 70.245.020.
33 A producer of other certified PCRC products must maintain a
34 certificate of compliance stating that the certified PCRC product is
35 in compliance with the postconsumer recycled content requirements of
36 RCW 70A.245.020. A third-party certification entity must be an
37 independent, accredited (ISO/IEC 17065) certifying body.

38 (2) A producer that submits information or records to the
39 department under this chapter may request that the information or
40 records be made available only for the confidential use of the

1 department, the director, or the appropriate division of the
2 department. The director of the department must give consideration to
3 the request and if this action is not detrimental to the public
4 interest and is otherwise in accordance with the policies and
5 purposes of chapter 43.21A RCW, the director must grant the request
6 for the information to remain confidential as authorized in RCW
7 43.21A.160 and shall develop a compliance certificate by the dates on
8 which the postconsumer recycled content requirements in RCW
9 70A.245.020 take effect for the producer's certified PCRC products.

10 (3) If compliance with minimum recycled content requirements is
11 achieved through an adjustment or temporary exclusion made pursuant
12 to RCW 70A.245.020, the certificate must state the specific basis
13 upon which the temporary exclusion or adjustment is claimed.

14 (4) (a) The certificate of compliance must be signed by an
15 authorized official of the producer unless the certificate is
16 provided by a third-party certification entity.

17 (b) The certificate of compliance must be kept on file by the
18 producer for three years from the date of the last sale or
19 distribution by the producer.

20 (c) A producer must furnish a certificate of compliance to the
21 department upon request within 60 days.

22 (d) Requests from a member of the public for any certificate of
23 compliance must be made in writing to the department and must be
24 specific as to the certified PCRC product information requested. The
25 department must respond to requests from a member of the public under
26 this subsection within 90 days.

27 (e) If a person is required under any other state statute,
28 including chapter 70A.222 RCW, to provide a certificate of
29 compliance, one certificate may be developed containing all required
30 information.

31 (f) If the producer of the certified PCRC product reformulates or
32 creates a new certified PCRC product, the producer shall develop an
33 amended or new certificate of compliance for the reformulated or new
34 certified PCRC product.

35 **Sec. 216.** RCW 70A.245.040 and 2021 c 313 s 5 are each amended to
36 read as follows:

37 (1) For covered products:

38 (a) A producer that does not meet the minimum postconsumer
39 recycled content requirements pursuant to RCW 70A.245.020 is subject

1 to a penalty pursuant to this section. Beginning June 1st of the year
2 following the first year that minimum postconsumer recycled product
3 content requirements apply to a category of covered product, the
4 penalty must be calculated consistent with subsection (2) of this
5 section unless a penalty reduction or corrective action plan has been
6 approved pursuant to subsection (3) of this section.

7 (b) A producer that is assessed a penalty pursuant to this
8 section may pay the penalty to the department in one payment, in
9 quarterly installments, or arrange an alternative payment schedule
10 subject to the approval of the department, not to exceed a 12-month
11 payment schedule unless the department determines an extension is
12 needed due to unforeseen circumstances, such as a public health
13 emergency, state of emergency, or natural disaster.

14 (2) Beginning June 1st of the year following the first year that
15 minimum postconsumer recycled product content requirements apply to a
16 category of covered product, and annually thereafter, the department
17 shall determine the penalty for the previous calendar year based on
18 the postconsumer recycled content requirement of the previous
19 calendar year. The department shall calculate the amount of the
20 penalty based upon the amounts in pounds in the aggregate of virgin
21 plastic, postconsumer recycled content plastic, and any other plastic
22 per category used by the producer to produce covered products sold or
23 offered for sale in or into Washington state, in accordance with the
24 following:

25 (a) (i) The annual penalty amount assessed to a producer must
26 equal the product of both of the following: The total pounds of
27 plastic used per category multiplied by the relevant minimum
28 postconsumer recycled plastic target percentage, less the pounds of
29 total plastic multiplied by the percent of postconsumer recycled
30 plastic used; multiplied by 20 cents.

31 (ii) Example: [(Total pounds of plastic used x minimum
32 postconsumer recycled plastic target percentage) - (Total pounds of
33 plastic used x postconsumer recycled plastic percentage used)] x 20
34 cents.

35 (b) For the purposes of (a) of this subsection, both of the
36 following apply:

37 (i) The total pounds of plastic used must equal the sum of the
38 amount of virgin plastic, postconsumer recycled content plastic, and
39 any other plastic used by the producer, as reported pursuant to RCW
40 70A.245.030.

1 (ii) If the product calculated pursuant to (a) of this subsection
2 is equal to or less than zero, the department may not assess a
3 penalty.

4 (3) (a) (i) The department shall consider granting a reduction of
5 penalties assessed pursuant to this section for the purpose of
6 meeting the minimum postconsumer recycled content requirements
7 required pursuant to RCW 70A.245.020.

8 (ii) In determining whether to grant the reduction pursuant to
9 (a)(i) of this subsection, the department shall consider, at a
10 minimum, all of the following factors:

11 (A) Anomalous market conditions;

12 (B) Disruption in, or lack of supply of, recycled plastics; and

13 (C) Other factors that have prevented a producer from meeting the
14 requirements.

15 (b) In lieu of or in addition to assessing a penalty under this
16 section, the department may require a producer to submit a corrective
17 action plan detailing how the producer plans to come into compliance
18 with RCW 70A.245.020.

19 (4) For the purposes of determining compliance with the
20 postconsumer recycled content requirements of this chapter, the
21 department may consider the date of manufacture of a covered product
22 or the container of a covered product.

23 (5) A producer shall pay the penalty assessed pursuant to this
24 section, as applicable, based on the information reported to the
25 department as required under RCW 70A.245.030 in the form and manner
26 prescribed by the department.

27 (6) For certified PCRC products:

28 (a) The department may assess a civil penalty to a producer in
29 violation of the requirements of RCW 70A.245.020, 70A.245.030, or
30 70A.245.060 in the amount of up to \$2,000 for the first violation of
31 this chapter, up to \$5,000 for the second violation of this chapter,
32 and up to \$10,000 for the third and any subsequent violation of RCW
33 70A.245.020, 70A.245.030, or 70A.245.060.

34 (b) A specific violation is deemed to have occurred upon the sale
35 of noncompliant product by stock-keeping unit number or unique item
36 number. The repeated sale of the same noncompliant product by stock-
37 keeping unit number or unique item number is considered a single
38 violation.

39 (7) For the purposes of determining compliance with the
40 postconsumer recycled content requirements of this chapter, the

1 department may consider the date of manufacture of a certified PCRC
2 product.

3 (8) A producer may appeal the penalty assessed under this section
4 to the pollution control hearings board within 30 days of assessment.

5 ((+7)) (9) Penalties collected under this section must be
6 deposited in the recycling enhancement account created in RCW
7 70A.245.100.

8 **Sec. 217.** RCW 70A.245.090 and 2021 c 313 s 12 are each amended
9 to read as follows:

10 (1) ((The)) Until January 1, 2027, the department may conduct
11 audits and investigations for the purpose of ensuring covered product
12 compliance with RCW 70A.245.020 and 70A.245.040 based on the
13 information reported under RCW 70A.245.030.

14 (2) ((The)) Until January 1, 2027, the department shall annually
15 publish a list of registered producers of covered products and
16 associated brand names, their compliance status, and other
17 information the department deems appropriate on the department's
18 website.

19 (3) To assist regulated parties with the requirements specified
20 under RCW 70A.245.070 and 70A.245.080, the department:

21 (a) Must prepare and post on its website information regarding
22 the prohibitions on the sale and distribution of expanded polystyrene
23 products as specified under RCW 70A.245.070 and restrictions on the
24 provision of optional serviceware under RCW 70A.245.080;

25 (b) For education and outreach to help implement RCW 70A.245.070
26 and 70A.245.080, may develop culturally appropriate and translated
27 educational materials and resources for the state's diverse ethnic
28 populations from existing materials used by local jurisdictions and
29 other states.

30 (4) The department may adopt rules as necessary to administer,
31 implement, and enforce this chapter.

32 **Sec. 218.** RCW 70A.245.100 and 2021 c 313 s 13 are each amended
33 to read as follows:

34 The recycling enhancement account is created in the custody of
35 the state treasurer. All penalties collected by the department
36 pursuant to RCW 70A.245.040 ((and)), 70A.245.050, and sections 123
37 and 211 of this act must be deposited in the account. Only the
38 director of the department or the director's designee may authorize

1 expenditures from the account. The account is subject to the
2 allotment procedures under chapter 43.88 RCW, but an appropriation is
3 not required for expenditures. Expenditures from the account may be
4 used by the department only for providing grants to local governments
5 for the purpose of supporting local solid waste and financial
6 assistance programs.

7 **Sec. 219.** RCW 70A.245.120 and 2021 c 313 s 15 are each amended
8 to read as follows:

9 (1) Subject to the availability of amounts appropriated for this
10 specific purpose prior to January 1, 2028, the department shall
11 contract with a research university or an independent third-party
12 consultant to study the plastic resin markets for all of the
13 following:

14 (a) Analyzing market conditions and opportunities in the state's
15 recycling industry for meeting the minimum postconsumer recycled
16 content requirements for ~~((covered products))~~ certified PCRC products
17 pursuant to RCW 70A.245.020 and 70A.245.030 for products subject to
18 minimum postconsumer recycled content requirements under chapter
19 70A.--- RCW (the new chapter created in section 502 of this act) and
20 this chapter, and for plastic collection bins subject to section 221
21 of this act; and

22 (b) Determining the data needs and tracking opportunities to
23 increase the transparency and support of a more effective, fact-based
24 public understanding of the recycling industry.

25 (2) If funding is provided pursuant to subsection (1) of this
26 section and the department undertakes the study, the study must be
27 completed by May 1, 2029. The requirements of this section may be
28 satisfied through a needs assessment as described in section 105(4)
29 of this act.

30 (3) This section expires July 1, 2029.

31 **Sec. 220.** RCW 70A.245.060 and 2021 c 313 s 7 are each amended to
32 read as follows:

33 (1) Beginning January 1, 2023, producers shall label each package
34 containing plastic trash bags sold, offered for sale, or distributed
35 in or into Washington with:

36 (a) The name of the producer and the city, state, and country
37 where the producer is located, which may be designated as the
38 location of the producer's corporate headquarters, and, beginning

1 January 1, 2026, the percentage of postconsumer recycled content that
2 the plastic trash bag contains in accordance with 16 C.F.R. Part 260,
3 as it existed as of the effective date of this section; or

4 (b) A uniform resource locator or quick response code to an
5 internet website that contains the information required pursuant to
6 (a) of this subsection.

7 (2)(a) The provisions of subsection (1) of this section do not
8 apply to a plastic bag that is designed and manufactured to hold,
9 store, or transport dangerous waste or biomedical waste.

10 (b) For the purposes of this subsection:

11 (i) "Biomedical waste" means any waste defined as that term under
12 RCW 70A.228.010; and

13 (ii) "Dangerous waste" means any waste defined as dangerous
14 wastes under RCW 70A.300.010.

15 NEW SECTION. Sec. 221. A new section is added to chapter
16 70A.245 RCW to read as follows:

17 ROLL CARTS. (1) Beginning January 1, 2025, a manufacturer or
18 person may only sell, offer for sale, or distribute for use in
19 Washington plastic collection bins made from at least 25 percent
20 postconsumer recycled content. However, a person providing solid
21 waste collection services may distribute for use in Washington any
22 plastic collection bins that were in use or in its inventory in
23 Washington state prior to January 1, 2025, until the end of such a
24 bin's useful life.

25 (2) A person with an existing municipal contract for plastic
26 collection bins that was in place prior to August 1, 2024, is exempt
27 from this section until the expiration or renewal date of the
28 contract. A new or renewed contract whose terms take effect after
29 August 1, 2024, must be consistent with the requirements of this
30 section. Exempt persons are encouraged to meet the requirements of
31 this section as collection bins are replaced under existing
32 contracts.

33 (3) Manufacturers of plastic collection bins, including persons
34 that sell, offer for sale, distribute, or provide collection bins in
35 Washington must provide written evidence or certification, upon
36 request, to the department or any municipality, retailer, stewardship
37 organization, solid waste collection company, or other purchaser of
38 collection bins showing that their collection bins meet the
39 requirements of this section.

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

5 **Part Three**

6 **Amendments to Solid Waste Management Laws**

7 **Sec. 301.** RCW 70A.205.005 and 2002 c 299 s 3 are each amended to
8 read as follows:

9 The legislature finds:

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

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

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

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

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

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

1 (b) It is the responsibility of state, county, and city
2 governments to provide for a waste management infrastructure to fully
3 implement waste reduction and source separation strategies and to
4 process and dispose of remaining wastes in a manner that is
5 environmentally safe and economically sound. It is further the
6 responsibility of state, county, and city governments to monitor the
7 cost-effectiveness and environmental safety of combusting separated
8 waste, processing mixed municipal solid waste, and recycling
9 programs.

10 (c) It is the responsibility of county and city governments to
11 assume primary responsibility for solid waste management and to
12 develop and implement aggressive and effective waste reduction and
13 source separation strategies.

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

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

26 (7) Environmental and economic considerations in solving the
27 state's solid waste management problems requires strong consideration
28 by local governments of regional solutions and intergovernmental
29 cooperation.

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

33 (a) Waste reduction;

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

36 (c) Energy recovery, incineration, or landfill of separated
37 waste;

38 (d) Energy recovery, incineration, or landfill of mixed municipal
39 solid wastes.

1 (9) It is the state's goal to achieve a (~~fifty~~) 50 percent
2 recycling rate by 2007.

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

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

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

12 (13) Vehicle batteries should be recycled and the disposal of
13 vehicle batteries into landfills or incinerators should be
14 discontinued.

15 (14) Excessive and nonrecyclable packaging of products should be
16 avoided.

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

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

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

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

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

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

1 **Sec. 302.** RCW 70A.205.010 and 2005 c 394 s 2 are each amended to
2 read as follows:

3 (1) The purpose of this chapter is to establish a comprehensive
4 statewide program for solid waste handling, and solid waste recovery
5 and/or recycling which will prevent land, air, and water pollution
6 and conserve the natural, economic, and energy resources of this
7 state. To this end it is the purpose of this chapter:

8 ~~((1))~~ (a) To assign primary responsibility for adequate solid
9 waste handling to local government, reserving to the state, however,
10 those functions necessary to assure effective programs throughout the
11 state;

12 ~~((2))~~ (b) To provide for adequate planning for solid waste
13 handling by local government;

14 ~~((3))~~ (c) To provide for the adoption and enforcement of basic
15 minimum performance standards for solid waste handling, including
16 that all sites where recyclable materials are generated and
17 transported from shall provide a separate container for solid waste;

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

24 ~~((5))~~ (e) To provide technical and financial assistance to
25 local governments in the planning, development, and conduct of solid
26 waste handling programs;

27 ~~((6))~~ (f) To encourage storage, proper disposal, and recycling
28 of discarded vehicle tires and to stimulate private recycling
29 programs throughout the state; ~~(and~~

30 ~~(7))~~ (g) To encourage the development and operation of waste
31 recycling facilities and activities needed to accomplish the
32 management priority of waste recycling and to promote consistency in
33 the permitting requirements for such facilities and activities
34 throughout the state; and

35 (h) To assign producer responsibility for covered products under
36 chapters 70A.500, 70A.505, 70A.510, 70A.515, 70A.550, 69.48, and
37 70A.--- RCW (the new chapter created in section 501 of this act).

38 (2) It is the intent of the legislature that local governments be
39 encouraged to use the expertise of private industry and to contract

1 with private industry to the fullest extent possible to carry out
2 solid waste recovery and/or recycling programs.

3 **Sec. 303.** RCW 70A.205.045 and 2020 c 20 s 1163 are each amended
4 to read as follows:

5 Each county and city comprehensive solid waste management plan
6 shall include the following:

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

10 (2) The estimated long-range needs for solid waste handling
11 facilities projected (~~(twenty)~~) 20 years into the future.

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

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

19 (b) Take into account the comprehensive land use plan of each
20 jurisdiction;

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

23 (d) Contain a plan for financing both capital costs and
24 operational expenditures of the proposed solid waste management
25 system.

26 (4) A program for surveillance and control.

27 (5) A current inventory and description of solid waste collection
28 needs and operations within each respective jurisdiction which shall
29 include:

30 (a) Any franchise for solid waste collection granted by the
31 utilities and transportation commission in the respective
32 jurisdictions including the name of the holder of the franchise and
33 the address of his or her place of business and the area covered by
34 the franchise;

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

37 (c) The population density of each area serviced by a city
38 operation or by a franchised operation within the respective
39 jurisdictions;

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

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

8 (7) The waste reduction and recycling element shall include the
9 following:

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

14 (b) Source separation strategies, including:

15 (i) Programs for the collection of source separated materials
16 from residences (~~(in urban and rural areas. In urban areas, these)~~).

17 (A) Until January 1, 2029, these programs shall include
18 collection of source separated recyclable materials from single and
19 multiple-family residences, in urban areas, unless the department
20 approves an alternative program, according to the criteria in the
21 planning guidelines. Such criteria shall include: Anticipated
22 recovery rates and levels of public participation, availability of
23 environmentally sound disposal capacity, access to markets for
24 recyclable materials, unreasonable cost impacts on the ratepayer over
25 the six-year planning period, utilization of environmentally sound
26 waste reduction and recycling technologies, and other factors as
27 appropriate. In rural areas, these programs shall include but not be
28 limited to drop-off boxes, buy-back centers, or a combination of
29 both, at each solid waste transfer, processing, or disposal site, or
30 at locations convenient to the residents of the county. The drop-off
31 boxes and buy-back centers may be owned or operated by public,
32 nonprofit, or private persons;

33 (B) Beginning January 1, 2029, except where the county has
34 adopted an ordinance establishing that materials on the uniform
35 statewide collection list for curbside recycling programs established
36 by the department must be collected exclusively through drop-off
37 locations in areas regulated by the utilities and transportation
38 commission under the provisions of chapter 81.77 RCW as allowed under
39 the provisions of chapter 70A.--- RCW (the new chapter created in
40 section 501 of this act), these programs shall:

1 (I) Provide curbside collection of source separated recyclable
2 materials from single-family and multiple-family residences wherever
3 curbside garbage collection services are provided to these entities;

4 (II) Include materials on the uniform statewide collection list
5 designated for curbside collection established by the department; and

6 (III) Include the service standards for curbside collection
7 frequency, container size, and method of collection, established
8 under plans approved by the department under chapter 70A.--- RCW (the
9 new chapter created in section 501 of this act);

10 (C) Comprehensive solid waste management plans that are newly
11 developed, updated, or amended after October 1, 2027, may incorporate
12 by reference programs described in an approved producer
13 responsibility organization plan under chapter 70A.--- RCW (the new
14 chapter created in section 501 of this act) to fulfill this
15 requirement in whole or in part;

16 (D) Before January 1, 2029, each comprehensive solid waste
17 management plan must be amended, revised, or updated by a
18 jurisdiction consistent with the requirements of this subsection
19 (7)(b)(i). Beginning January 1, 2029, until a comprehensive solid
20 waste management plan is amended, revised, or updated to be
21 consistent with the requirements of this subsection (7)(b)(i), the
22 model comprehensive solid waste plan amendment provided by the
23 department under section 104 of this act applies in the jurisdiction;

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

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

32 (iv) Programs to educate and promote the concepts of waste
33 reduction, reuse, and recycling;

34 ~~(c) ((Recycling strategies, including a description of markets~~
35 ~~for recyclables, a review of waste generation trends, a description~~
36 ~~of waste composition, a discussion and description of existing~~
37 ~~programs and any additional programs needed to assist public and~~
38 ~~private sector recycling, and an implementation schedule for the~~
39 ~~designation of specific materials to be collected for recycling, and~~
40 ~~for the provision of recycling collection services;~~

1 ~~(d)~~) Other information the county or city submitting the plan
2 determines is necessary.

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

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

11 (10) A contamination reduction and outreach plan. The
12 contamination reduction and outreach plan must address reducing
13 contamination in recycling. Except for counties with a population of
14 (~~twenty-five thousand~~) 25,000 or fewer, by July 1, 2021, a
15 contamination reduction and outreach plan must be included in each
16 solid waste management plan by a plan amendment or included when
17 revising or updating a solid waste management plan developed under
18 this chapter. Jurisdictions may adopt the state's contamination
19 reduction and outreach plan as developed under RCW 70A.205.070 or
20 participate in a producer responsibility organization's plan in lieu
21 of creating their own plan. A recycling contamination reduction and
22 outreach plan must include the following:

23 (a) A list of actions for reducing contamination in recycling
24 programs for single-family and multiple-family residences, commercial
25 locations, and drop boxes depending on the jurisdictions system
26 components;

27 (b) A list of key contaminants identified by the jurisdiction or
28 identified by the department;

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

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

33 (e) An implementation schedule and details of how outreach is to
34 be conducted. Contamination reduction education methods may include
35 sharing community-wide messaging through newsletters, articles,
36 mailers, social media, websites, or community events, informing
37 recycling drop box customers about contamination, and improving
38 signage.

1 **Sec. 304.** RCW 81.77.030 and 2020 c 20 s 1467 are each amended to
2 read as follows:

3 (1) The commission shall supervise and regulate every solid waste
4 collection company in this state,

5 ~~((1))~~ (a) By fixing and altering its rates, charges,
6 classifications, rules and regulations;

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

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

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

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

16 ~~((6))~~ (f) By reviewing producer responsibility organization
17 reimbursement of regulated service providers consistent with the
18 requirements of chapter 70A.--- RCW (the new chapter created in
19 section 501 of this act);

20 (g) By requiring certificate holders under this chapter ~~((81.77~~
21 ~~RCW))~~ to use rate structures and billing systems consistent with the
22 solid waste management priorities set forth under RCW 70A.205.005 and
23 the minimum levels of solid waste collection and recycling services
24 pursuant to local comprehensive solid waste management plans. The
25 commission may order consolidated billing and provide for reasonable
26 and necessary expenses to be paid to the administering company if
27 more than one certificate is granted in an area; and

28 (h) By requiring certificate holders under this chapter to
29 deliver covered products, as defined in section 102 of this act,
30 collected from residents only to facilities that meet the
31 requirements of section 110(2) of this act.

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

1 **Sec. 305.** RCW 81.77.160 and 1997 c 434 s 1 are each amended to
2 read as follows:

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

6 (a) All charges for the disposal of solid waste at the facility
7 or facilities designated by a local jurisdiction under a local
8 comprehensive solid waste management plan or ordinance; (~~and~~)

9 (b) All known and measurable costs related to implementation of
10 the approved county or city comprehensive solid waste management
11 plan; and

12 (c) All costs related to the implementation of curbside recycling
13 collection services performed by a solid waste collection company
14 consistent with chapter 70A.--- RCW (the new chapter created in
15 section 501 of this act).

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

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

28 NEW SECTION. **Sec. 306.** A new section is added to chapter 81.77
29 RCW to read as follows:

30 (1) The commission shall adopt rules to establish schedules for
31 payments from producer responsibility organizations formed under
32 chapter 70A.--- RCW (the new chapter created in section 501 of this
33 act) to solid waste collection companies for full cost recovery and
34 reimbursement mechanisms for residential recycling customers.

35 (2)(a) For solid waste collection company payment schedules, the
36 commission shall adopt rules to ensure that solid waste collection
37 companies maintain:

38 (i) Financial solvency; and

39 (ii) Ordinary cash flow.

1 (b) Under the rules adopted by the commission, payment schedules
2 must be consistent with:

- 3 (i) Any tariffs approved by the commission;
4 (ii) Payment schedules included in comprehensive solid waste
5 management plans prepared under RCW 70A.205.045;
6 (iii) Local service level ordinances; and
7 (iv) Other factors determined by the commission to be necessary
8 and in the public interest.

9 (3) For residential recycling customer reimbursement, the
10 commission shall develop rules that:

11 (a) Establish a credit mechanism for customers to be reimbursed
12 for the full cost of curbside recycling consistent with section 116
13 of this act; and

14 (b) Maintain existing billing practices for solid waste
15 collection companies.

16 (4) Nothing in this section requires a solid waste collection
17 company to issue a billing credit for curbside recycling to customers
18 if the company has not received a payment from the producer
19 responsibility organization sufficient to cover the cost of the
20 credit to all customers covered by the company tariff.

21 **Sec. 307.** RCW 81.77.185 and 2010 c 154 s 3 are each amended to
22 read as follows:

23 (1) The commission shall allow solid waste collection companies
24 collecting recyclable materials other than covered products collected
25 under an approved plan in chapter 70A.--- RCW (the new chapter
26 created in section 501 of this act) to retain up to ((fifty)) 50
27 percent of the revenue paid to the companies for the material if the
28 companies submit a plan to the commission that is certified by the
29 appropriate local government authority as being consistent with the
30 local government solid waste plan and that demonstrates how the
31 revenues will be used to increase recycling. The remaining revenue
32 shall be passed to residential customers.

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

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

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

1 **Other Conforming Amendments and Miscellaneous Provisions**

2 **Sec. 401.** RCW 43.21B.110 and 2023 c 455 s 5, 2023 c 434 s 20,
3 2023 c 344 s 5, and 2023 c 135 s 6 are each reenacted and amended to
4 read as follows:

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

12 (a) Civil penalties imposed pursuant to RCW 18.104.155,
13 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070,
14 70A.515.060, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080,
15 70A.245.130, 70A.245.140, 70A.65.200, 70A.455.090, 70A.550.030,
16 70A.555.110, 70A.560.020, sections 123 and 211 of this act,
17 76.09.170, 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270,
18 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

19 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
20 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070,
21 70A.245.020, 70A.65.200, 70A.555.110, 70A.560.020, sections 123 and
22 211 of this act, 86.16.020, 88.46.070, 90.14.130, 90.46.250,
23 90.48.120, and 90.56.330.

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

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

34 (e) Decisions of local health departments regarding the issuance
35 and enforcement of permits to use or dispose of biosolids under RCW
36 70A.226.090.

37 (f) Decisions of the department regarding waste-derived
38 fertilizer or micronutrient fertilizer under RCW 15.54.820, and

1 decisions of the department regarding waste-derived soil amendments
2 under RCW 70A.205.145.

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

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

12 (i) Decisions of the department of natural resources, the
13 department of fish and wildlife, and the department that are
14 reviewable under chapter 76.09 RCW, and the department of natural
15 resources' appeals of county, city, or town objections under RCW
16 76.09.050(7).

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

19 (k) Decisions of the department of fish and wildlife to issue,
20 deny, condition, or modify a hydraulic project approval permit under
21 chapter 77.55 RCW, to issue a stop work order, to issue a notice to
22 comply, to issue a civil penalty, or to issue a notice of intent to
23 disapprove applications.

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

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

30 (n) Decisions of the department of ecology that are appealable
31 under RCW 70A.245.020 or section 210 of this act to set recycled
32 minimum postconsumer content for ((covered)) products or to
33 temporarily exclude types of ((covered)) products in plastic
34 containers from minimum postconsumer recycled content requirements.

35 (o) Orders by the department of ecology under RCW 70A.455.080.

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

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

1 (b) Hearings conducted by the department pursuant to RCW
2 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,
3 70A.15.3110, and 90.44.180.

4 (c) Appeals of decisions by the department under RCW 90.03.110
5 and 90.44.220.

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

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

11 **Sec. 402.** RCW 43.21B.300 and 2023 c 455 s 6, 2023 c 434 s 21,
12 and 2023 c 135 s 7 are each reenacted and amended to read as follows:

13 (1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160,
14 70A.205.280, 70A.300.090, 70A.20.050, 70A.245.040, 70A.245.050,
15 70A.245.070, 70A.245.080, 70A.245.130, 70A.245.140, 70A.65.200,
16 70A.455.090, 70A.555.110, 70A.560.020, sections 123 and 211 of this
17 act, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310,
18 90.56.330, and 90.64.102 and chapter 70A.355 RCW shall be imposed by
19 a notice in writing, either by certified mail with return receipt
20 requested or by personal service, to the person incurring the penalty
21 from the department or the local air authority, describing the
22 violation with reasonable particularity. For penalties issued by
23 local air authorities, within 30 days after the notice is received,
24 the person incurring the penalty may apply in writing to the
25 authority for the remission or mitigation of the penalty. Upon
26 receipt of the application, the authority may remit or mitigate the
27 penalty upon whatever terms the authority in its discretion deems
28 proper. The authority may ascertain the facts regarding all such
29 applications in such reasonable manner and under such rules as it may
30 deem proper and shall remit or mitigate the penalty only upon a
31 demonstration of extraordinary circumstances such as the presence of
32 information or factors not considered in setting the original
33 penalty.

34 (2) Any penalty imposed under this section may be appealed to the
35 pollution control hearings board in accordance with this chapter if
36 the appeal is filed with the hearings board and served on the
37 department or authority 30 days after the date of receipt by the
38 person penalized of the notice imposing the penalty or 30 days after

1 the date of receipt of the notice of disposition by a local air
2 authority of the application for relief from penalty.

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

4 (a) 30 days after receipt of the notice imposing the penalty;

5 (b) 30 days after receipt of the notice of disposition by a local
6 air authority on application for relief from penalty, if such an
7 application is made; or

8 (c) 30 days after receipt of the notice of decision of the
9 hearings board if the penalty is appealed.

10 (4) If the amount of any penalty is not paid to the department
11 within 30 days after it becomes due and payable, the attorney
12 general, upon request of the department, shall bring an action in the
13 name of the state of Washington in the superior court of Thurston
14 county, or of any county in which the violator does business, to
15 recover the penalty. If the amount of the penalty is not paid to the
16 authority within 30 days after it becomes due and payable, the
17 authority may bring an action to recover the penalty in the superior
18 court of the county of the authority's main office or of any county
19 in which the violator does business. In these actions, the procedures
20 and rules of evidence shall be the same as in an ordinary civil
21 action.

22 (5) All penalties recovered shall be paid into the state treasury
23 and credited to the general fund except those penalties imposed
24 pursuant to RCW 18.104.155, which shall be credited to the
25 reclamation account as provided in RCW 18.104.155(7), RCW
26 70A.15.3160, the disposition of which shall be governed by that
27 provision, RCW 70A.245.040 (~~and~~), 70A.245.050, and section 211 of
28 this act, which shall be credited to the recycling enhancement
29 account created in RCW 70A.245.100, RCW 70A.300.090, 70A.555.110, and
30 70A.560.020, which shall be credited to the model toxics control
31 operating account created in RCW 70A.305.180, RCW 70A.65.200, which
32 shall be credited to the climate investment account created in RCW
33 70A.65.250, RCW 90.56.330, which shall be credited to the coastal
34 protection fund created by RCW 90.48.390, (~~and~~) RCW 70A.355.070,
35 which shall be credited to the underground storage tank account
36 created by RCW 70A.355.090, and chapter 70A.--- RCW (the new chapter
37 created in section 501 of this act), which shall be credited to the
38 recycling enhancement account created in RCW 70A.245.100.

1 NEW SECTION. **Sec. 403.** AUTHORITY OF UTILITIES AND
2 TRANSPORTATION COMMISSION. Nothing in this chapter or chapter 70A.---
3 RCW (the new chapter created in section 502 of this act) changes or
4 limits the authority of the Washington utilities and transportation
5 commission to regulate collection of solid waste, including curbside
6 collection of residential recyclable materials, in accordance with
7 chapter 81.77 RCW.

8 NEW SECTION. **Sec. 404.** LITTER TAX STUDY. (1) In consultation
9 with producer responsibility organizations registered with the
10 department of ecology under chapter 70A.--- RCW (the new chapter
11 created in section 501 of this act), the department of ecology and
12 the department of revenue must study:

13 (a) The impacts of producer requirements under chapter 70A.---
14 RCW (the new chapter created in section 501 of this act) on the
15 litter rates of covered products under that chapter; and

16 (b) Possible improvements to the structure of the litter tax
17 under chapter 82.19 RCW including administration, compliance, and
18 distribution of the tax and application of the tax to certain
19 products, for achieving the purpose of chapter 82.19 RCW. The
20 improvements to the structure of the litter tax to be studied under
21 this section may not include an increase in the rate of the litter
22 tax under chapter 82.19 RCW or an expansion of the types of covered
23 products under chapter 70A.--- RCW (the new chapter created in
24 section 501 of this act) that are subject to the litter tax.

25 (2) By January 1, 2029, the department of ecology, in
26 consultation with the department of revenue, must provide
27 recommendations to the appropriate committees of the legislature on:

28 (a) Applicability of the litter tax to covered products, based on
29 whether the purpose of the litter tax under chapter 82.19 RCW is
30 being achieved for those products by the requirements of producers
31 under chapter 70A.--- RCW (the new chapter created in section 501 of
32 this act); and

33 (b) Improvements to the structure of the litter tax for meeting
34 the purposes of chapter 82.19 RCW.

35 (3) This section expires July 1, 2029.

36 NEW SECTION. **Sec. 405.** RCW 70A.245.110 (Recycled content
37 account) and 2021 c 313 s 14 are each repealed, effective July 1,
38 2029.

