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**SENATE BILL 5284**

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**State of Washington 69th Legislature 2025 Regular Session**

**By** Senators Lovelett, Shewmake, Nobles, Bateman, Salomon, Saldaña, Stanford, C. Wilson, Frame, Pedersen, Hasegawa, Liias, Orwall, Slatter, and Valdez

AN ACT Relating to improving Washington's solid waste management outcomes; amending RCW 70A.205.045, 70A.205.500, 81.77.030, 81.77.160, and 81.77.185; reenacting and amending RCW 43.21B.110, 43.21B.300, and 49.48.082; adding a new section to chapter 49.46 RCW; adding a new chapter to Title 70A RCW; creating new sections; prescribing penalties; and providing an expiration date.

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

**Part One**

**Providing for Producer Responsibility in the Management**

**of Packaging and Paper Products**

NEW SECTION. **Sec.**  FINDINGS—INTENT. (1) The legislature finds that, as of 2025:

(a) Washington's statewide waste recovery rate has been generally static since 2011 and Washington is not meeting the statewide goal of 50 percent recycling established in 1989; and

(b) Many residents, particularly those who live in rural areas and in multifamily residences, do not have access to convenient or affordable curbside recycling, and must rely on taking recyclables to drop box locations, and that extended producer responsibility programs could make curbside recycling available and affordable for most people in the state.

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

(b) It is intended that these programs be responsibly planned and funded in a manner that minimizes negative impacts to the environment and minimizes risks to public health and worker health and safety. It is also intended that these programs build and expand on the existing waste and recycling system's infrastructure and reliance on the authority of local governments and the utilities and transportation commission in solid waste management.

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

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

(1) "Advisory council" means the council established in section 105 of this act.

(2) "Alternative recycling process" means a recycling process that occurs other than through purely physical means.

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

(4) "Collection rate" means the amount of a covered material by covered materials type collected by service providers and transported for recycling or composting divided by the total amount of the type of a covered material by covered materials type introduced by the relevant unit of measurement established in the plan.

(5) "Compostable" means a product that is capable of composting in a composting system and is in compliance with the requirements for a product labeled as compostable under chapter 70A.455 RCW.

(6) "Composting" means the controlled microbial degradation of source separated compostable materials to yield a humus-like product.

(7) "Composting rate" means the amount of compostable covered material that is managed through composting, divided by the total amount of compostable covered material introduced by the relevant unit of measurement.

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

(9) "Contamination" means:

(a) The presence of materials that are not on the list of materials collected in that material stream; or

(b) The presence of materials that are not specified or accepted as a component of the feedstock or commodity.

(10) "Covered entity" means a person or location that receives covered services for covered materials in accordance with the requirements of this chapter, including:

(a) A single-family residence;

(b) A multifamily residence; and

(c) A public place where a government entity managed recycling collection receptacles as of August 1, 2025, and any additional public place identified in an approved plan.

(11)(a) "Covered material" means packaging and paper products introduced into the state.

(b) "Covered material" does not include exempt materials.

(12) "Covered materials type" means a singular and specific type of material, such as paper, plastic, metal, or glass, that is a covered material and that:

(a) May be categorized based on distinguishing chemical or physical properties, including properties that allow a covered materials type to be aggregated into a discrete commodity category for purposes of reuse, recycling, or composting; and

(b) Is based on similar uses in the form of a product or packaging.

(13)(a) "Covered services" means collecting, transferring, transporting, sorting, processing, recovering, preparing, or otherwise managing for purposes of waste reduction, refill, reuse, recycling, composting, or disposal of contamination or residuals.

(b) Except with regard to contamination, "covered services" do not include:

(i) Resource recovery through mixed municipal solid waste composting or incineration; or

(ii) Land disposal.

(14) "De minimis producer" means a producer that:

(a) In their most recent fiscal year introduced less than one ton of covered materials; or

(b) Has a global gross revenue, not including on-premises alcohol sales, for the prior fiscal year of:

(i) Until January 1, 2031, less than $5,000,000; or

(ii) Beginning January 1, 2031, less than $5,000,000, as adjusted for inflation. The department must use the consumer price index for urban wage earners to calculate the annual rate of inflation adjustment effective January 1st of each year, beginning January 1, 2031.

(15) "Department" means the department of ecology.

(16) "Drop-off collection site" means a physical location where covered materials are accepted from the public and that is open a minimum of 12 hours weekly throughout the year.

(17) "Exempt materials" means materials, or any portion of materials, that are:

(a) Packaging for infant formula, as defined in 21 U.S.C. Sec. 321(z);

(b) Packaging for medical food, as defined in 21 U.S.C Sec. 360ee(b)(3);

(c) Packaging for a fortified oral nutritional supplement used by persons who require supplemental or sole source nutrition to meet nutritional needs due to special dietary needs directly related to cancer, chronic kidney disease, diabetes, malnutrition, or failure to thrive, as those terms are defined by the *International Classification of Diseases*, tenth revision;

(d) Packaging for a product regulated as a drug, medical device, or dietary supplement by the United States food and drug administration, including associated components and consumable medical equipment, under the federal food, drug, and cosmetic act (21 U.S.C. Sec. 321 et seq.), or a product regulated as a biologic or vaccine by the United States food and drug administration under the public health service act (42 U.S.C. Sec. 201 et seq.);

(e) Packaging for a medical equipment or product used in medical settings that is regulated by the United States food and drug administration, including associated components and consumable medical equipment;

(f) Packaging for drugs, biological products, parasiticides, medical devices, or in vitro diagnostics that are used to treat, or that are administered to, animals and are regulated by the United States food and drug administration under the federal food, drug, and cosmetic act (21 U.S.C. Sec. 301 et seq.) and by the United States department of agriculture under the federal virus-serum-toxin act (21 U.S.C. Sec. 151 et seq.);

(g) Packaging for products regulated by the United States environmental protection agency under the federal insecticide, fungicide, and rodenticide act (7 U.S.C. Sec. 136 et seq.);

(h) Packaging used to contain liquefied petroleum gas and are designed to be refilled;

(i) Packaging used to contain hazardous or flammable products classified by the 2012 federal occupational safety and health administration hazard communication standard, 29 C.F.R. Sec. 1910.1200 (2024), that prevent the packaging from being reduced or made reusable, recyclable, or compostable, as determined by the department;

(j) Packaging that is associated with products managed through a paint stewardship plan approved under chapter 70A.515 RCW;

(k) Exempt materials, as determined by the department under section 125 of this act;

(l) Used to protect or store a durable product for a period of at least five years;

(m) Covered materials that:

(i) A producer distributes to another producer;

(ii) Are subsequently used to contain a product and the product is distributed to a commercial or business entity for the production of another product; and

(iii) Are not introduced to a person other than the commercial or business entity that first received the product used for the production of another product; and

(n) Covered materials for which the producer demonstrates to the department that the covered material meets all of the following criteria:

(i) The material is not collected through a residential recycling collection service;

(ii) The material is recycled at a responsible market;

(iii) The material is intended to be used and collected within a commercial setting;

(iv)(A) The producer annually demonstrates to the department that the material has had a state recycling rate of 65 percent for three consecutive years, until December 31, 2029. Beginning January 1, 2030, the producer must demonstrate to the department every two years that the material has had a state recycling rate of at least 70 percent annually; or

(B) The producer annually demonstrates to the department that the material is directly managed by the producer and has had a reuse or recycling rate of 65 percent for three consecutive years, until December 31, 2029. Beginning January 1, 2030, the producer must demonstrate to the department every two years that the material controlled by the producer has had a reuse or recycling rate of at least 70 percent annually; and

(v) If only a portion of the material sold in or into the state by a producer meets the criteria of (n)(i) of this subsection, only the portion of the material that meets that criteria is an exempt material and any portion that does not meet the criteria is a covered material for purposes of this chapter.

(18) "Government entity" means any:

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

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

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

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

(19) "Individual plan" means a plan submitted by a producer that registers with the department as a producer responsibility organization to address the covered materials of the producer.

(20) "Introduce" means to sell, offer for sale, distribute, or ship a product within or into this state.

(21) "Material recovery facility" means any facility that receives, compacts, repackages, or sorts source separated solid waste for the purpose of recycling.

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

(23)(a) "Packaging" means a material, substance, or object that is used to protect, contain, transport, serve, or facilitate delivery of a product and is sold or supplied with the product to the consumer for personal, noncommercial use.

(b) "Packaging" does not include exempt materials.

(24) "Paper product" means paper sold or supplied to a consumer for personal, noncommercial use, including flyers, brochures, booklets, catalogs, magazines, printed paper, and all other paper materials except for: (a) Bound books; (b) conservation-grade and archival-grade paper; (c) newspapers, including supplements or enclosures; (d) magazines that have a circulation of fewer than 95,000 and that includes content derived from primary sources related to news and current events; (e) copy paper; (f) paper for use in building construction; and (g) paper that could reasonably be anticipated to become unsafe or unsanitary to handle.

(25)(a) "Plastic source reduction" means the reduction in the amount of covered plastic material introduced by a producer relative to a baseline year of 2023, or relative to an alternative baseline year of no earlier than 2013 where a producer submits data documenting the plastic source reduction to a producer responsibility organization. Methods of source reduction include, but are not limited to, shifting covered material to reusable or refillable packaging or a reusable product, eliminating unnecessary packaging, or reducing the packaging to product ratio. "Plastic source reduction" must include elimination, which means the removal of plastic covered materials.

(b) "Plastic source reduction" does not include either of the following:

(i) Replacing a recyclable or compostable covered material with a nonrecyclable or noncompostable covered material or a covered material that is less likely to be recycled or composted; or

(ii) Switching from virgin covered material to postconsumer recycled content.

(26) "Postconsumer recycled content" has the same meaning as defined in RCW 70A.245.010.

(27)(a) "Producer" means the following person responsible for compliance with requirements under this chapter for a covered material introduced into the state:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) Where another person has mutually signed an agreement with a producer as defined in (a)(i) through (v) of this subsection that contractually assigns responsibility to the person as the producer, and the person has joined a registered producer responsibility organization as the responsible producer for that covered material under this chapter. If another person is assigned responsibility as the producer under this subsection, the producer under (a)(i) through (v) of this subsection must provide written certification of that contractual agreement to the producer responsibility organization; and

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

(b) "Producer" does not include:

(i) Government entities;

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

(iii) De minimis producers.

(28) "Producer responsibility organization" means:

(a) A nonprofit organization that qualifies for a tax exemption under 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code and is designated by a producer or group of producers to fulfill the requirements of this chapter;

(b) A producer that registers with the department as a producer responsibility organization and implements an individual plan addressing the covered materials of the producer; or

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

(29) "Program" means the activities conducted to implement an approved plan.

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

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

(31) "Recycling" means transforming or remanufacturing covered materials into usable or marketable materials for use other than landfill disposal or incineration and does not include reuse or composting.

(32) "Recycling rate" means the amount of covered materials, in aggregate or by individual covered materials type, delivered to responsible markets for recycling in a calendar year divided by the total amount of covered materials introduced by the relevant unit of measurement and excluding covered materials that are reusable or compostable.

(33) "Refill" means the continued use of a covered material by a consumer through a system that is:

(a) Intentionally designed and marketed for repeated filling of a covered material to reduce demand for new production of the covered material;

(b) Supported by adequate logistics and infrastructure to provide convenient access to consumers; and

(c) Compliant with all applicable federal, state, and local statutes, rules, ordinances, and other laws governing health and safety.

(34) "Responsible market" means an entity that:

(a) First produces and sells, transfers, or uses recycled organic product or recycled content feedstock that meets the quality standards necessary to be used in the creation of new or reconstituted products;

(b) Complies with all applicable federal, state, and local statutes, rules, ordinances, and other laws governing environmental, health, safety, and financial responsibility;

(c) If the market operates in the state, manages waste according to the state's solid waste management hierarchy established in RCW 70A.205.005; and

(d) Meets the minimum operational standards adopted under a producer responsibility organization plan to protect the environment, public health, worker health and safety, and minimize adverse impacts to socially vulnerable populations.

(35) "Responsible producer" means a producer that is not a de minimis producer.

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

(37) "Return rate" means the amount of reusable covered material in aggregate or by individual covered materials type, collected for reuse by a producer or service provider in a calendar year, divided by the total amount of reusable covered materials introduced by the relevant unit of measurement.

(38) "Reusable" means capable of reuse.

(39) "Reuse" means the return of a covered material to the marketplace and the continued use of the covered material by a producer or service provider when the covered material is:

(a) Intentionally designed and marketed to be used multiple times for its original intended purpose without a change in form;

(b) Designed for durability and maintenance to extend its useful life and reduce demand for new production of the covered material;

(c) Supported by adequate logistics and infrastructure at a retail location, by a service provider, or on behalf of or by a producer, that provides convenient access for consumers; and

(d) Compliant with all applicable federal, state, and local statutes, rules, ordinances, and other laws governing health and safety.

(40) "Reuse rate" means the share of units of a reusable covered material introduced into the state in a calendar year that are demonstrated and deemed reusable in accordance with an approved plan.

(41) "Service provider" means an entity that provides covered services for covered materials. A government entity that provides, contracts for, or otherwise arranges for another party to provide covered services for covered materials within its jurisdiction may be a service provider regardless of whether it provided, contracted for, or otherwise arranged for similar services before the approval of the applicable plan.

(42) "Socially vulnerable population" means:

(a) Any person residing in a census tract that contains a high overall social vulnerability index as measured using the United States center for disease control and the agency for toxic substances and disease registry's social vulnerability index, as it existed as of January 1, 2025, for the most recent year such data are available; or

(b) Any person that has an income below the minimum necessary for a household based on family composition in a given geography to adequately meet their basic needs without public or private assistance, as measured by the University of Washington's center for women's welfare, for the most recent year such data are available.

(43) "Third-party certification" means certification by an accredited independent organization that a standard or process required by this chapter, or by a plan approved under this chapter, has been achieved.

(44) "Toxic substance" means chemicals that are regulated under chapter 70A.222, 70A.350, 70A.430, or 70A.560 RCW.

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

NEW SECTION. **Sec.**  PRODUCER AND PRODUCER RESPONSIBILITY ORGANIZATION REGISTRATION. (1) By January 1, 2026, each producer must appoint a producer responsibility organization or producer responsibility organizations to address its covered materials.

(2) By March 1, 2026, and annually thereafter, a producer responsibility organization must register with the department on behalf of its producers. A registration submission by a producer responsibility organization must include the following:

(a) Contact information for a person responsible for implementing an approved plan;

(b) A list of all member producers that have entered into written agreements to operate under an approved plan by the producer responsibility organization, copies of the written agreements for each member producer and, except in the first year of registration, a list of all brands of each producer's covered materials introduced;

(c) A plan for recruiting additional member producers and executing written agreements confirming producers will operate under an approved plan administered by the producer responsibility organization;

(d) A list of current board members and the executive director if different than the person responsible for implementing approved plans; and

(e) Documentation demonstrating adequate financial responsibility and financial controls to ensure proper management of funds and payment of the annual registration fee to the department.

(3) Notwithstanding subsections (1), (2), and (4) of this section, for purposes of the first plan implementation period, the department may not allow registration of more than one producer responsibility organization, other than an individual producer registered as a producer responsibility organization.

(4) By September 1, 2026, and each May 1st thereafter, a producer responsibility organization must submit an annual registration fee to fund all costs of the department to implement, administer, and enforce this chapter.

NEW SECTION. **Sec.**  PRODUCER AND PRODUCER RESPONSIBILITY ORGANIZATION RESPONSIBILITIES. (1) A producer must:

(a) After July 1, 2026, be a member of a producer responsibility organization registered in this state or register as a producer responsibility organization that will implement an individual plan;

(b) Through a producer responsibility organization, implement and finance a statewide program for packaging and paper products in accordance with this chapter that encourages redesign to reduce environmental impacts and human health impacts and that reduces generation of covered material waste through waste reduction, refill, reuse, recycling, and composting and by providing for the collection, transportation, and processing of used covered materials for reuse, recycling, and composting;

(c) Maintain membership with and pay fees to the producer responsibility organization under which they are registered; and

(d) Comply with all other applicable requirements under this chapter.

(2) Beginning March 1, 2029, a producer that is not a member in good standing with a registered producer responsibility organization or has not submitted an individual plan may not introduce covered materials into the state.

(3) A producer responsibility organization must:

(a)(i) Beginning March 1, 2026, register with the department;

(ii)(A) Except as provided in (a)(ii)(B) of this subsection, by September 1, 2026, submit a one-time payment to the department, in lieu of the registration fee required in section 103 of this act, in an amount determined by the department, to cover the costs of the department under this chapter from the effective date of this section through June 30, 2027;

(B) By September 1, 2026, a producer responsibility organization that is an individual producer registered as a producer responsibility organization must make a one-time payment in an amount determined by the department to cover any incremental costs to the department under this chapter from the effective date of this section through June 30, 2027, associated with the registration of the individual producer as a producer responsibility organization;

(iii) Beginning May 1, 2027, pay an annual registration fee to the department as required under section 103 of this act;

(b) Establish an initial producer fee structure to fund the initial implementation of the program, to be used until the producer responsibility program has an approved plan, and collect fees annually from registered producers;

(c) By October 1, 2028, and every five years thereafter, submit a plan that meets the requirements of this chapter to the department for approval;

(d) By January 1, 2030, or within six months of plan approval, whichever is later, implement the plan approved by the department;

(e) By July 1, 2031, and each July 1st thereafter, submit an annual report to the department for the prior calendar year;

(f) Ensure that each producer operating under a plan administered by the producer responsibility organization complies with the requirements of the plan and this chapter;

(g) Expel a producer from the producer responsibility organization if efforts to return the producer to compliance with the plan or the requirements of this chapter are unsuccessful and notify the department of the producer's expulsion;

(h) Consider and respond in writing to comments received from the advisory council, including justifications for not incorporating advisory council recommendations;

(i) Provide producers with information regarding state and federal laws that prohibit substances in covered materials or require postconsumer recycled content in covered materials, including chapters 70A.222, 70A.245, 70A.350, and 70A.560 RCW;

(j) Notify the department within 30 days of a change made to the contact information for a person responsible for implementing the plan, to board membership, or to the executive director;

(k) Assist service providers to identify and use responsible markets;

(l) Reimburse service providers in a timely manner, at intervals no longer than monthly unless agreed to by a service provider and a producer responsibility organization;

(m) Maintain a website and implement education and outreach activities as required under section 119 of this act; and

(n) Comply with all other applicable requirements of this chapter.

(4) If more than one producer responsibility organization is established under this chapter, the producers and producer responsibility organizations must establish a coordinating body and process to prevent redundancy. The coordinating body must integrate:

(a) Plans of all producer responsibility organizations into a single plan that implements all requirements of this chapter and encompasses all producers when submitted to the department for approval;

(b) Annual reports of all producer responsibility organizations into a single annual report that covers all requirements of this chapter and encompasses all producers when submitted to the department; and

(c) Payments between all registered producer responsibility organizations to achieve equitable apportionment of funding for the reuse financial assistance program and coordination of the program's administration.

(5)(a) Each producer responsibility organization must annually fund and implement a reuse financial assistance program to reduce the negative environmental impacts of covered materials through reuse. The reuse financial assistance program must collectively be funded by registered producer responsibility organizations in the amount of $5,000,000 beginning in 2027 and adjusted annually thereafter for inflation. The department must use the consumer price index for urban wage earners to calculate the annual rate of inflation adjustment effective January 1st of each year.

(b) Entities eligible for reuse financial assistance include, but are not limited to:

(i) Government entities;

(ii) Tribal governments;

(iii) Nonprofit organizations; and

(iv) Private organizations.

(c) In administering the reuse financial assistance program, the producer responsibility organization must solicit applications using an open and competitive process and must select applications through an evaluation that considers criteria including, but not limited to:

(i) The environmental benefits of the activity;

(ii) The human health benefits of the activity;

(iii) The social and economic benefits of the activity;

(iv) The cost-effectiveness of the activity; and

(v) The needs of economically distressed or overburdened communities.

(d) The producer responsibility organization must consult with the advisory council in determining the criteria in (c) of this subsection, evaluating and selecting applications, and in administering the reuse financial assistance program under this subsection.

(6) A producer responsibility organization may not include on its board of directors, or otherwise be governed by, representatives or affiliates of any public or private entities that submit bids to perform work for the producer responsibility organization or that contract with the producer responsibility organization.

(7) The activities authorized by this chapter require collaboration among producers. These activities will enable the waste reduction, collection, recycling, composting, and disposal of covered materials in Washington and are therefore in the best interest of the public. The benefits of collaboration, together with active state supervision, outweigh potential adverse impacts. Therefore, the legislature exempts from state antitrust laws, and provides immunity through the state action doctrine from federal antitrust laws, activities that are undertaken in compliance with and pursuant to this chapter, including activities that are reviewed or approved by the department, that might otherwise be constrained by such laws. The legislature does not intend and does not authorize any person or entity to engage in activities not provided for by this chapter, and the legislature neither exempts nor provides immunity for such activities.

NEW SECTION. **Sec.**  ADVISORY COUNCIL. (1) The advisory council is established to review all activities conducted by producer responsibility organizations under this chapter and to advise the department and producer responsibility organizations regarding the implementation of this chapter.

(2) By January 1, 2026, the department must establish and appoint the initial membership of the advisory council. The membership of the advisory council must consist of the following:

(a) Two members representing manufacturers of covered materials or a statewide or national trade association representing those manufacturers;

(b) Two members representing recycling facilities that manage covered materials;

(c) One member representing a solid waste collection company or a statewide association representing solid waste collection companies;

(d) One member representing retailers of covered materials or a statewide trade association representing those retailers;

(e) One member representing a statewide nonprofit environmental organization;

(f) One member representing a community-based nonprofit environmental justice organization;

(g) One member representing a material recovery facility;

(h) One member representing a waste facility that accepts and processes compostable materials for composting or a statewide trade association that represents those facilities;

(i) One member representing an entity that develops or offers for sale covered materials that are designed for reuse or refill and maintained through a reuse or refill system or infrastructure or a statewide or national trade association that represents those entities;

(j) Three members representing government entities, with at least one member representing counties;

(k) One member representing tribal or indigenous solid waste services organizations;

(l) Two members representing other interested parties or additional members of interests represented under (a) through (k) of this subsection, as determined by the department;

(m) One nonvoting member representing each registered producer responsibility organization; and

(n) One member representing the department.

(3) In appointing members, the department:

(a) May not appoint members who are state legislators or registered lobbyists;

(b) May not appoint members who are employees of a producer required to be members of a producer responsibility organization under this chapter; and

(c) Must endeavor to appoint members from all regions of the state.

(4)(a) The member appointed to represent the department serves at the pleasure of the department. All other members serve for a term of four years, except that the initial term for nine of the initial appointees must be two years so that membership terms are staggered. Members may be reappointed but may not serve more than eight consecutive years.

(b) A member may be removed by the department at any time. The chair of the advisory council must inform the department of a member missing three consecutive meetings. After the second consecutive missed meeting, the chair of the advisory council must notify the member in writing that the member may be removed for missing the next meeting. If there is a vacancy on the advisory council for any reason, the department shall make an appointment to become effective immediately for the unexpired term.

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

(6)(a) A majority of the voting advisory councilmembers constitutes a quorum. If there is a vacancy in the membership of the advisory council, a majority of the remaining voting members of the council constitutes a quorum.

(b) Action by the advisory council requires a quorum and a majority of those present and voting. All members of the advisory council, except the member appointed to represent the department, are voting members of the council.

(7)(a) The advisory council must meet at least two times per year and may meet more frequently upon 10 days' written notice at the request of the chair or a majority of its members.

(b) Meetings of the advisory council must comply with chapter 42.30 RCW, the open public meetings act.

(8) At its initial meeting, and every two years thereafter, the advisory council must elect a chair and vice chair from among its members.

(9) The department shall provide administrative and operating support to the advisory council, including compensation in accordance with subsection (5) of this section, and may contract with a third-party facilitator to assist in administering the activities of the advisory council, including establishing a website or landing page on the department website.

(10) The department must assist the advisory council in developing policies and procedures governing the disclosure of actual or perceived conflicts of interest that advisory councilmembers may have as a result of their employment or financial holdings with respect to themselves or family members. Each advisory councilmember is responsible for reviewing the conflict-of-interest policies and procedures. An advisory councilmember must disclose any instance of actual or perceived conflicts of interest at each meeting of the advisory council at which recommendations regarding plans, programs, operations, or activities are made by the advisory council.

NEW SECTION. **Sec.**  DEPARTMENT'S DUTIES. (1) The department must implement, administer, and enforce this chapter and may adopt rules as necessary for those purposes.

(2) The department must:

(a) By January 1, 2026, appoint the initial membership of the advisory council, as required under section 105 of this act;

(b) Provide administrative and operating support to the advisory council, as required under section 105 of this act;

(c) Consider and respond in writing to all written comments received by the advisory council;

(d) By January 31, 2026, and annually thereafter, facilitate registration by service providers, as required under section 107 of this act;

(e) By March 1, 2026, accept the registration of producer responsibility organizations and, if necessary, select the producer responsibility organization required by subsection (3) of this section;

(f) By October 1, 2026, develop the initial statewide collection lists required by section 109 of this act;

(g) By December 31, 2026, complete the preliminary needs assessment required by section 111 of this act;

(h) By March 31, 2027, determine the annual registration fee in subsection (4)(a) of this section;

(i) By December 31, 2027, and every five years thereafter, complete the statewide needs assessment required by section 111 of this act;

(j) By 2028, adopt rules to administer and implement this chapter. The department shall seek to adopt rules that are harmonized with other states;

(k) Beginning October 1, 2028, and periodically thereafter, review and approve plans, as described in subsection (5) of this section;

(l) By January 31, 2029, create a model comprehensive solid waste plan amendment for use by cities and counties in lieu of updating, amending, or revising a plan consistent with RCW 70A.205.045(7)(b)(i);

(m) Beginning March 1, 2029, implement enforcement on noncompliant producers that are not members of the producer responsibility organization, consistent with section 104(2) and 123 of this act;

(n) Beginning July 1, 2031, and annually thereafter, review and approve annual reports, as described in subsection (6) of this section;

(o) Beginning January 31, 2032, submit the equity study to the legislature required in section 112 of this act;

(p) By September 1, 2038, submit the independent review of the program report to the legislature as required in section 121 of this act;

(q) Establish statewide requirements as required under section 115(10) of this act;

(r) Review and make determinations on proposals related to alternative recycling processes, as described in section 115(5) of this act;

(s) Review confidentiality requests submitted under section 122 of this act;

(t) Enforce the requirements of this chapter, as required by section 123 of this act;

(u) Review petitions to exempt materials, as required by section 125 of this act; and

(v) Establish a public website that includes:

(i) The most recent registration materials submitted by producer responsibility organizations;

(ii) A list of registered service providers;

(iii) The most recent needs assessment;

(iv) Any plan or amendment submitted by a producer responsibility organization that is in draft form during the public comment period;

(v) The most recent lists under section 109 of this act;

(vi) The list of exempt materials;

(vii) Links to producer responsibility organization websites;

(viii) Comments of the public, advisory council, and producer responsibility organizations on the items listed in (v)(iii) through (vi) of this subsection and, if any, the responses of the department to those comments; and

(ix) Links to adopted rules implementing this chapter.

(3) By March 1, 2026, if registrations for more than one producer responsibility organization, other than producers registering as producer responsibility organizations, are submitted to the department, the department must determine which proposed producer responsibility organization can most effectively implement this chapter until the first approved plan period ends. Until the conclusion of the initial plan implementation period, producers of covered materials that do not register as producer responsibility organizations must join the producer responsibility organization whose registration is approved by the department. This limitation only applies for the purposes of program development and the initial plan implementation period. After the first plan approved by the department expires, the department may allow registration of more than one producer responsibility organization.

(4)(a) By March 31, 2027, and every March 31st thereafter, the department must:

(i) Determine a total annual registration fee to be paid by each producer responsibility organization that is adequate to cover, but not exceed, the costs to implement, administer, and enforce this chapter in the next fiscal year;

(ii) By 2028, adopt rules to equitably determine annual registration fees by producer responsibility organizations if the department has approved the registration of more than one producer responsibility organization; and

(iii) Send notice to each producer responsibility organization of fee amounts due.

(b) The department must:

(i) In the March 31, 2027, producer responsibility organization annual registration fee determination under (a) of this subsection, adjust the fee to account for funds received on September 1, 2026;

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

(iii) Increase annual fees for the coming fiscal year to cover the costs identified under (a)(ii) of this subsection, if the collected annual fee was less than the amount required to cover those costs for a given year.

(5) The department must review and approve, deny, or request additional information for a draft plan or draft amendment, including a contingency plan as required in section 114 of this act, submitted by a producer responsibility organization or coordinating body, within 120 days of receipt.

(a) The department must post the draft plan or plan amendment update on the department's website and allow public comment for no less than 45 days before approving, denying, or requesting additional information on the draft plan or amendment.

(b) If the department denies or requests additional information for a draft plan or amendment, the department must provide the producer responsibility organization with the reasons, in writing, that the plan or amendment does not meet the plan requirements of section 113 of this act. The producer responsibility organization has 60 days from the date that the rejection or request for additional information is received to submit to the department any additional information necessary for the department's approval. The department must review and approve or disapprove the revised draft plan or amendment no later than 60 days after the department receives it.

(c) Upon recommendation of the advisory council, or upon the department's initiative, the department may require an amendment to the plan if the department determines that an amendment is necessary to ensure that the producer responsibility organization maintains compliance with the requirements of this chapter.

(6) The department must review annual reports and:

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

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

(c) Determine whether an annual report meets the requirements of this chapter, considering comments received under (a) of this subsection, and notify the producer responsibility organization of the approval or reasons for denial. The producer responsibility organization must submit a revised annual report within 60 days after receipt of the denial letter; and

(d) Notify a producer responsibility organization if the annual report demonstrates that a plan fails to achieve the requirements under this chapter.

(7) Upon request of the department for purposes of determining compliance with this chapter, or for purposes of implementing this chapter, a person must furnish to the department any information that the person has or may reasonably obtain.

NEW SECTION. **Sec. .** SERVICE PROVIDER REGISTRATION. (1) By January 31, 2026, and annually thereafter, each service provider seeking reimbursement for services provided under an approved plan must register with the department by submitting the following information:

(a) The contact information for a person representing the service provider;

(b) The address of the service provider;

(c) Identification of service areas where covered services are to be provided to covered entities;

(d) Identification of the covered services to be provided to covered entities, by service area; and

(e) If applicable to services provided, a report of the number of covered entities currently provided service, the number of covered entities eligible to receive service, and the total amount billed for collection for covered entities, processing services, transfer station operations provided, and tons managed during the preceding calendar year, by covered entity type and by service area. When possible, values must be separated for collection, transfer, and processing.

(2)(a) Material recovery facilities receiving covered materials collected from covered entities must register as service providers as described in subsection (1) of this section and must additionally report annually to the department by commodity type and covered material type, in a form and format created by the department, on the following:

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

(ii) Inbound material quality and contamination;

(iii) Outbound material quality and contamination;

(iv) Outbound material tons, destinations, and final use by commodity type, including each destination company and location. If exported outside of the United States, the destination country must be listed. Beginning in 2031, material recovery facilities must submit certification for each destination to which commodities containing covered materials were sent that the destination is a responsible market;

(v) Methods of managing contaminants and residue to avoid negative impacts on other waste streams or facilities;

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

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

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

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

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

NEW SECTION. **Sec.**  SERVICE PROVIDER RESPONSIBILITIES. A service provider receiving reimbursement or funding under an approved plan must:

(1) Provide covered services for covered materials included on the statewide collection lists, covered services for a refill system, or covered services for reusable covered materials, as applicable to the services offered by and service area of the service provider;

(2) Register annually with the department;

(3) Submit invoices to the producer responsibility organization for reimbursement for services rendered;

(4) Meet performance standards established in an approved plan;

(5) Ensure that covered materials are sent to responsible markets;

(6) Provide documentation to the producer responsibility organization of the amounts, covered material types, and volumes of covered materials by covered service method;

(7) Display the service provider's price, minus the reimbursement from the producer responsibility organization, when invoicing customers; and

(8) Comply with all other applicable requirements of this chapter.

NEW SECTION. **Sec.**  STATEWIDE COLLECTION LISTS. (1)(a) The department must develop a list of covered materials determined to be recyclable or compostable statewide. By October 1, 2026, the department must develop an initial list for use and evaluation in the needs assessment described in section 111 of this act. The department must also publish lists no later than 30 days after approving a plan, taking into account proposed changes in the plan. In the development of the lists, the department must distinguish between:

(i) Materials determined to be suitable for residential recycling collection, whether in a commingled or in a separate container;

(ii) Materials determined to be suitable for residential composting collection;

(iii) Materials suitable for public place collection; and

(iv) Materials suitable for alternative collection at locations other than residential.

(b) In determining whether a material is suitable for residential, public place, or alternative collection, the department may consider the following criteria:

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

(ii) Environmental health and safety considerations;

(iii) The anticipated yield loss for the material during the recycling or composting process;

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

(v) Whether the material adheres to published design guidelines for recyclability or compostability;

(vi) The amount of the material available;

(vii) The practicalities of sorting and storing the material;

(viii) The potential to cause or be impacted by contamination;

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

(x) Economic factors;

(xi) Environmental factors from a life-cycle perspective;

(xii) The policy expressed in RCW 70A.205.010; or

(xiii) Other criteria or factors, as determined by the department.

(2) A producer responsibility organization may propose a covered material for addition to or removal from the lists under this section as part of a plan or as a plan amendment. In considering the proposal, the department may consider the same criteria as those established under subsection (1)(b) of this section.

(3) In developing lists under this section, the department must consult with the advisory council, producer responsibility organizations, service providers, government entities, and other interested parties. The department must consider any requests received for the inclusion or removal of a covered material or covered material type on a list under this section. The department may select a third-party consultant to assist with the development of the lists.

(4)(a) Except as described in (b) of this subsection, a material that is not identified as suitable for residential collection may not be collected as part of a residential recycling program.

(b) A covered material that is not identified as suitable for residential collection may be temporarily collected as part of a residential recycling program and qualify for reimbursement if:

(i) The covered material is collected as part of a pilot program agreed to by the service provider, the government entity under whose authority the service is provided, and the producer responsibility organization;

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

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

NEW SECTION. **Sec.**  CONVENIENCE STANDARDS—ALTERNATIVE COLLECTION. (1) Collection services for covered materials determined to be suitable for residential recycling collection under section 109 of this act must be available wherever residential garbage collection services are available, except in areas subject to a county ordinance as specified in RCW 70A.205.045(7)(b)(i)(C).

(2) A producer responsibility organization must implement an alternative collection program for covered materials included on the alternative collection list that:

(a) Provides year-round, convenient, statewide collection opportunities, including at least one drop-off collection site located in each county;

(b) Provides tiers of service for collection, convenience, number of drop-off collection sites, and additional collection systems based on:

(i) County population size;

(ii) County population density; and

(iii) Each class of city or town under chapter 35.01 RCW;

(c) Ensures materials are sent to responsible markets;

(d) Uses education and outreach strategies that can be expected to significantly increase consumer awareness of the program throughout the state; and

(e) Accurately measures the amount of each covered material collected and the applicable performance target and statewide requirement.

(3) A plan for an alternative collection program must include:

(a) The number, type, and location of each collection opportunity;

(b) A description of how each of the program requirements in (a) of this subsection will be met; and

(c) Performance targets for each covered material, as applicable, to be managed through an alternative collection program.

(4) Every subsequent needs assessment after the first needs assessment must include a review of alternative collection programs for each covered material on the statewide list to determine if the program is meeting the criteria established in subsection (2) of this section.

(5) A retail establishment may choose to serve as a drop-off location or collection event as part of an alternative collection program, through mutual agreement with a producer responsibility organization.

NEW SECTION. **Sec.**  STATEWIDE NEEDS ASSESSMENTS. (1)(a) By December 31, 2026, the department must complete a preliminary assessment consistent with subsection (3) of this section.

(b) By December 31, 2027, and every five years thereafter, the department must complete a needs assessment consistent with subsection (4) of this section. The department may adjust the required content in a specific needs assessment to inform the next plan.

(2) In conducting a needs assessment, the department must:

(a) Initiate a consultation process to obtain recommendations from the advisory council, government entities, service providers, producer responsibility organizations, the utilities and transportation commission, and other interested parties, regarding the type and scope of information that should be collected and analyzed in the needs assessments required by this section;

(b) Contract with a third party who is not a producer, a producer responsibility organization, or a member of the advisory council to conduct the needs assessment;

(c) Prior to finalizing the needs assessment, make the draft needs assessment available for comment by the advisory council, producer responsibility organizations, the utilities and transportation commission, and the public. The department must respond in writing to the comments and recommendations of the advisory council and producer responsibility organizations; and

(d)(i) Consider information from studies related to recycling conducted by the department after 2019; and

(ii) Use the department's statewide collection lists for covered materials as established under section 109 of this act.

(3) A preliminary needs assessment must be completed for a preceding period of no less than 12 months and no more than 36 months that includes:

(a) Identification of currently or recently introduced covered materials and covered material types;

(b) Tons of collected covered materials;

(c) The characteristics of recycling and composting programs, including a description of single-stream and dual-stream recycling systems offered in the state and prevalence of their use, average frequency of collection of covered materials for recycling and composting, types of collection containers used, commonly accepted materials for recycling and composting, and total costs by type of covered entity;

(d) Processing capacity at material recovery facilities, including total tons processed and sold, composition of tons processed and sold, current technologies utilized, and facility processing fees charged to collectors delivering covered materials for recycling;

(e) Capacity of, including total tons processed and sold, technology used by, and characteristics of compost facilities to process and recover compostable covered materials, and facility processing fees charged to collectors delivering covered materials for composting;

(f) Capacity and number of drop-off collection sites;

(g) Capacity and number of transfer stations and transfer locations;

(h) Average term length of residential recycling and composting collection contracts issued by government entities and an assessment of contract cost structures;

(i) An estimate of the total annual collection and processing service costs based on registered service provider costs;

(j) Available markets in Washington for covered materials and the capacity of those markets; and

(k) Covered material sales by volume, weight, and covered material types introduced by producers.

(4) Each needs assessment after the preliminary needs assessment must include at least the following:

(a) An evaluation of:

(i) Existing waste reduction, refill, reuse, recycling, and composting, as applicable, for each covered material type, including collection rates, recycling rates, composting rates, reuse rates, and return rates, as applicable, for each covered material type;

(ii) Overall recycling rate, composting rate, reuse rate, and return rate for all covered material types; and

(iii) The extent to which postconsumer recycled content, by the best estimate, is or could be incorporated into each covered materials type, as applicable, including a review of North American sources and markets and technical barriers to incorporating postconsumer materials into covered materials;

(b) An evaluation of covered materials in the disposal, recycling, and composting streams to determine the covered materials types and amounts within each stream, using new studies conducted by the department or publicly available and applicable studies;

(c) Proposals for a range of outcomes for each covered materials type to be accomplished within a five-year time frame in multiple units of measurement including, but not limited to, unit-based, weight-based, and volume-based, for each of the following:

(i) Plastic source reduction rates, including elimination targets;

(ii) Reuse rates and return rates;

(iii) Recycling rates;

(iv) Composting rates; and

(v) Postconsumer recycled content, if applicable;

(d) Proposals for a range of outcomes for the categories established in section 115(10) of this act that consider:

(i) Information contained in or used to prepare a needs assessment under this section;

(ii) Goals and requirements of chapters 70A.205 and 70A.245RCW;

(iii) The statewide greenhouse gas emissions limits of chapter 70A.45 RCW;

(iv) The need for continuous progress toward overall reduction in the generation of covered material waste, the reuse, recycling, or composting of covered materials to reduce environmental impacts and human health impacts, and progress to incorporate postconsumer content to replace virgin materials and to support more regional markets;

(v) A preference for statewide requirements that accomplish and further the goals and requirements in (d)(ii), (iii), and (iv) of this subsection as soon as practicable and to the maximum extent achievable; and

(vi) Information from paper and packaging producer responsibility programs operating in other jurisdictions;

(e) An evaluation of the criteria used for developing the list of covered materials determined to be recyclable or compostable statewide as established in section 109 of this act;

(f) Recommended collection methods by covered materials type to maximize collection efficiency, maximize feedstock quality, and optimize service and convenience for collection of covered materials to be considered or that are included on lists established in section 109 of this act;

(g) Proposed plans and metrics for how to measure progress in achieving performance targets and statewide requirements;

(h) An evaluation of options for third-party certification of activities to meet obligations of this chapter;

(i) An inventory of the current system, including:

(i) Infrastructure, capacity, performance, funding level, and method and source of financing for the existing covered services for covered materials operating in the state;

(ii) An estimate of total annual costs of covered services based on registered service provider costs; and

(iii) Availability and cost of covered services for covered materials to covered entities and any other location where covered materials are introduced, including identification of disparities in the availability of these services in overburdened communities compared with other areas and to socially vulnerable populations as compared to other populations and proposals for reducing or eliminating those disparities;

(j) An evaluation of investments needed to increase waste reduction, refill, reuse, recycling, and composting rates of covered materials according to the range of proposed performance targets and statewide requirements, including investments in existing and new infrastructure that would also:

(i) Maintain or improve operations of existing infrastructure and accounts for waste reduction, refill, reuse, recycling, and composting of covered materials statewide;

(ii) Expand the availability and accessibility of recycling collection services for covered materials to all places required under this chapter and expand the availability and accessibility of composting collection services where feasible; and

(iii) Establish and expand the availability and accessibility of reuse services for reusable covered materials;

(k) A recommended methodology for applying criteria and formulas to establish reimbursement rates as described in section 117 of this act;

(l) An assessment of the viability and robustness of markets for recyclable and compostable covered materials and the degree to which these markets can be considered responsible markets;

(m) An assessment of the level and causes of contamination of source separated recyclable materials, source separated compostable materials, and collected reusables, and the impacts of contamination on service providers, including the cost to manage this contamination;

(n) An assessment of toxic substances intentionally added to or residual from manufacturing in covered materials, whether this limits one or more covered material types from being used as a marketable feedstock, and best practices producers can implement to reduce intentionally added or residual toxic substances in covered materials that could be verified through suppliers' certificates of compliance, testing, or other analytical and scientifically demonstrated technology;

(o) An assessment and evaluation of current best practices and efforts on:

(i) Public awareness, education, and outreach activities accounting for culturally responsive materials and methods and an evaluation of the efficacy of those efforts;

(ii) Using product or packaging labels as a means of informing consumers about environmentally sound use and management of covered materials;

(iii) Increasing public awareness of how to use and manage covered materials in an environmentally sound manner and how to access waste reduction, refill, reuse, recycling, and composting services; and

(iv) Encouraging behavior change to increase participation in waste reduction, refill, reuse, recycling, and composting programs;

(p) Identification of the covered materials with the most significant environmental impact, including assessing each covered material's generation of hazardous waste, generation of greenhouse gases, environmental justice impacts, public health impacts, and other impacts;

(q) Recommendations for meeting the criteria for an alternative collection program; and

(r) Other items identified by the department that would aid the creation of the plan, the implementation of the plan, and the enforcement of this chapter.

(5) When determining the extent to which any statewide requirement or performance target under this chapter has been achieved, information contained in a needs assessment must serve as the baseline for that determination, when applicable.

(6)(a) A service provider or other person with data or information necessary to complete a needs assessment must provide the data or information to the department upon request.

(b) A service provider or other person providing the data or information may submit a request to the department consistent with section 122 of this act that the data or information be considered confidential and not made public.

(c) The contractor conducting the needs assessment must aggregate and anonymize the nonpublic data or information, excluding location data as necessary to assess needs, received from all parties under this section and must then include the aggregated anonymized data in the needs assessment.

NEW SECTION. **Sec.**  EQUITY STUDY. (1) By January 31, 2032, the department must complete a study, conducted by a contracted third party that is not a producer or producer responsibility organization, of facilities operating in the state that manage covered materials. The study must analyze, at a minimum, information about:

(a) Working conditions, wage and benefit levels, and employment levels of minorities and women at those facilities;

(b) Barriers to ownership of recycling, composting, and reuse operations faced by women and minorities;

(c) The degree to which residents of multifamily buildings have less convenient access to recycling, composting, and reuse opportunities than those living in single-family homes;

(d) The degree to which individuals living in overburdened communities have access to fewer recycling, composting, and reuse opportunities compared to other parts of the state;

(e) The degree to which programs to increase access, convenience, and education are successful in raising reuse, recycling, and composting rates in areas where participation in these activities is low;

(f) Strategies to increase participation in reuse, recycling, and composting; and

(g) The degree to which residents and workers in overburdened communities are impacted by emissions, toxic substances, and other pollutants from solid waste facilities in comparison to other areas of the state and recommendations to mitigate those impacts.

(2) The producer responsibility organization registered under this chapter must cover the cost of conducting the study through the fee under section 116 of this act, and recommended actions identified in the study must be considered for inclusion as part of future plans required under this chapter, including adjustments to service provider reimbursements under section 117 of this act.

NEW SECTION. **Sec.**  PLAN. (1) By October 1, 2028, and every five years thereafter, a producer responsibility organization must submit a plan to the department that describes the proposed operation by the organization of programs to fulfill the requirements of this chapter and that incorporates the findings and results of needs assessments.

(2) A producer responsibility organization must submit a draft plan or draft amendment to the advisory council at least 60 days prior to submitting to the department to allow the advisory council to submit comments and must address advisory council comments and recommendations prior to the submission of the draft plan or draft plan amendment to the department.

(3) A draft plan must include at a minimum:

(a) Performance targets established under section 115 of this act as applicable to each covered materials type to be accomplished within a five-year period;

(b) Any proposals for additions or removal of covered materials to the lists established under section 109 of this act;

(c) A description of the methods of collection, how collection service convenience metrics in section 110 of this act will be met, and a description of processing infrastructure and covered services to be used for each covered materials type for persons and locations receiving services, at a minimum, and how these will meet the performance targets established in section 115 of this act for covered materials that are:

(i) Included or proposed to be included on lists established in section 109 of this act;

(ii) Reusable covered materials managed through a reuse system; and

(iii) Capable of refill and managed through a refill system;

(d) A description of how, for each covered materials type, the producer responsibility organization will measure recycling, plastic source reduction, reuse, composting, and the inclusion of postconsumer recycled content, in accordance with the methodology established in section 115 of this act;

(e) Third-party certifications as required by the department or voluntarily undertaken;

(f) A budget identifying funding needs for each of the plan's five calendar years, producer fees, a description of the process used to calculate the fees, and an explanation of how the fees meet the requirements of section 116 of this act;

(g) A description of infrastructure investments, including:

(i) Goals and outcomes and a description of how the process to offer and select opportunities will be conducted in an open, competitive, and fair manner;

(ii) How the infrastructure investments will address gaps in the system not met by service providers; and

(iii) Potential financial and legal instruments to be used;

(h) An explanation of how the plan will be paid for by the producer responsibility organization solely through fees from producers. This restriction does not apply to refundable deposits made in connection with a product's refill, reuse, or recycling that can be redeemed by a consumer;

(i) A description of activities to be undertaken by the producer responsibility organization during each year to:

(i) Minimize the environmental impacts and human health impacts of covered materials, including assessing each covered material type's generation of hazardous waste, generation of greenhouse gases, environmental justice impacts, public health impacts, and other impacts;

(ii) Foster the improved design of covered materials, as identified under section 116(2)(c) of this act;

(iii) Provide funding to expand and increase the convenience of waste reduction, refill, reuse, collection, recycling, and composting services to covered entities, at a minimum, according to the order of the state's solid waste management hierarchy established in RCW 70A.205.005;

(iv) Provide for reimbursement rates to service providers for statewide coverage of covered services on the lists established in section 109 of this act; and

(v) Monitor to ensure that postconsumer materials are delivered to responsible markets;

(j) A description of how the producer responsibility organization will promote the opportunity for all service providers to register with the department and to submit invoices for reimbursement with the producer responsibility organization;

(k) A description of how the program will reimburse service providers under an approved plan including, but not limited to, a description of how the program will establish:

(i) A methodology to calculate differentiated reimbursement rates as provided in sections 116 and 117 of this act;

(ii) A process for service providers to submit invoices and be reimbursed for covered services provided to covered entities;

(iii) Clear and reasonable timelines for reimbursement, at intervals no longer than monthly unless agreed to by a service provider and a producer responsibility organization; and

(iv) A process that utilizes a third-party mediator to resolve disputes that arise between the producer responsibility organization and a service provider regarding the determination of reimbursement rates and payment of reimbursements;

(l) Performance standards for service providers as applicable to the service provided including, but not limited to:

(i) Requirements that service providers must accept all covered materials on the applicable list established by the department under section 109(1)(a) of this act;

(ii) Requirements that service providers must offer residential recycling collection for materials on the applicable list established by the department under section 109(1)(a) of this act to covered entities wherever they offer residential garbage collection services, except in areas subject to a county ordinance as specified in RCW 70A.205.045(7)(b)(i)(C);

(iii) Requirements that service must be provided in a manner consistent with the requirements of: (A) Chapter 70A.205 RCW for curbside collection services of source separated recyclable materials from residences; and (B) chapter 81.77 RCW;

(iv) Requirements that service providers must manage covered materials in a manner consistent with the state's solid waste management hierarchy established in RCW 70A.205.005; and

(v) Requirements that service providers comply with all applicable federal, state, and local laws governing health and safety;

(m) A requirement that owners or operators of a material recovery facility that manages covered materials under this chapter comply with the compensation requirements specified in section 304 of this act;

(n) A description of how the producer responsibility organization will treat and protect nonpublic data submitted by service providers;

(o) A description of how the producer responsibility organization will provide technical assistance to:

(i) Service providers in order to assist them in delivering covered materials to responsible markets;

(ii)(A) Producers regarding intentionally added toxic substances and residual toxic substances from manufacturing in covered materials; (B) best practices identified in the needs assessment that producers can take to reduce intentionally added or residual toxic substances in covered materials; and (C) best practices for verifying reduction through suppliers' certificates of compliance, testing, or other analytical and scientifically demonstrated methodology; and

(iii) Producers to make changes in product design that reduce the environmental impact of covered materials or that increase the recoverability or marketability of covered materials for reuse, recycling, or composting;

(p) A description of how the producer responsibility organization will increase public awareness, educate, and complete outreach activities that meet the requirements of section 119 of this act and will evaluate the efficacy of these efforts;

(q) A description of how the producer responsibility organization will reduce or eliminate disparities in the availability of covered services for covered materials by socially vulnerable populations;

(r) Proposed alternative collection programs as required under section 110 of this act;

(s) A description of how producers can purchase postconsumer materials from service providers at market prices if the producer is interested in obtaining recycled feedstock to achieve minimum postconsumer recycled content performance targets and statewide requirements;

(t) A summary of consultations held with the advisory council and other interested parties to provide input to the plan, a list of recommendations that were incorporated into the plan as a result, and a list of rejected recommendations and the reasons for rejection;

(u) Strategies to incorporate findings from any relevant studies required by the legislature; and

(v) Any other information required by the department by rule.

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

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

(b) Upon the expiration of an approved plan;

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

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

(2) The contingency plan must be submitted to the department as a component of the producer responsibility organization's initial plan. The department may require a producer responsibility organization to revise the contingency plan coincident with any plan submittal.

(3) The requirements of this section do not require a producer responsibility organization to hold funds in a dedicated account until such time as the contingency plan must be implemented.

(4) The department must follow the same process and timelines for reviewing and approving the contingency plan as it follows for the plan.

NEW SECTION. **Sec.**  PERFORMANCE TARGETS. (1) The producer responsibility organization must propose performance targets based on the needs assessment that meet the statewide requirements in subsection (10) of this section that must be included in an approved plan. Performance targets must include reuse rates, return rates, recycling rates for materials delivered to responsible markets, composting rates, and targets for plastic source reduction and postconsumer recycled content by covered materials type, as applicable. For products for which postconsumer recycled content rates are established in RCW 70A.245.010 through 70A.245.050 and 70A.245.090 (1), (2), and (4), those rates must be included in an approved plan. The producer responsibility organization must propose the unit or units that are most appropriate to measure each performance target as informed by the needs assessment.

(2) The department may require that a producer responsibility organization obtain third-party certification of any activity or achievement of any performance target required by this chapter if a third-party certification is readily available, deemed applicable, and of reasonable cost. The department must provide the producer responsibility organization with notice of at least one year prior to requiring use of third-party certification under this subsection.

(3) Proposed targets must demonstrate continuous improvement in reducing environmental impacts and human health impacts of covered materials over time.

(4) For purposes of determining whether recycling performance targets are being met, except as modified by the department, a plan must provide a methodology for measuring the amount of covered material sent for recycling at the point at which material leaves a material recovery facility or other processing facility and must account for:

(a) Levels and types of estimated contamination documented by the facility;

(b) Any exclusions for fuel or energy capture; and

(c) Compliance with all state laws pertaining to toxic substances in covered materials, including chapters 70A.222, 70A.350, 70A.430, and 70A.560 RCW.

(5)(a) The department must, in consultation with representatives from overburdened communities, the advisory council, service providers, municipalities, state agencies, alternative recycling technology providers, and others, approve or deny a proposal by a producer responsibility organization to count towards recycling performance targets the materials sent to facilities that use an alternative recycling process for conversion of plastic covered materials for the purpose of producing recycled material.

(b) The department must establish a process by which a producer responsibility organization may annually propose to count towards recycling performance targets the materials sent to a facility that uses an alternative recycling process.

(c) The department may only approve the producer responsibility organization's proposal to count towards recycling performance targets the materials sent to a facility that uses an alternative recycling process if the department determines that the alternative recycling process:

(i) Does not include combustion, fuel production, and other forms of energy recovery of plastic covered materials in processing or disposal;

(ii) Provides protection for the environment and human health with consideration of inputs and outputs, including as measured against all of the following criteria:

(A) Environmental release of air and water pollutants or any hazardous pollutants;

(B) Generation of hazardous waste;

(C) Energy use and generation of greenhouse gases;

(D) Environmental impacts on overburdened communities and vulnerable populations;

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

(F) Public health impacts; and

(G) Capture and recycling rates;

(iii) Reduces gaps in collection, recycling, and composting services at covered entities;

(iv) Meets an unmet need in the state that will result in meeting recycling performance targets, including creating new recycling markets for materials currently disposed of in landfills or incinerated;

(v) Provides third-party certification of recycled content; and

(vi) Addresses those other environmental impacts as determined by the department.

(d)(i) In making its determination under (c) of this subsection, the department must take into consideration any local, state, or federal environmental permitting requirements that govern the operation of an alternative recycling process that reduces air and water pollutants or the generation of hazardous waste or pollutants. The department must also take into consideration whether the alternative process produces food-grade or pharmaceutical-grade recycled content.

(ii) The department must publish a determination on the producer responsibility organization's proposal, detailing why it was approved or denied and how it measured against the criteria listed in (c) of this subsection. The department must also conduct a public review process for at least 60 days.

(e) A person may appeal a decision by the department under (d) of this subsection to the pollution control hearings board.

(f) The department must, no more frequently than every five years, require the producer responsibility organization to provide any updated information deemed necessary that demonstrates that an approved alternative recycling process is continuing to meet the requirements of this section. If the facility fails to meet the requirements of this section, the department shall prohibit the producer responsibility organization from counting material sent to the alternative recycling facility towards recycling performance targets.

(g) Nothing in this chapter prohibits or affects the use of any alternative recycling process for products or packaging that are not covered materials under this chapter.

(6) For purposes of determining whether plastic source reduction performance targets are being met, a plan must provide a methodology for measuring the amount of plastic source reduction of covered materials in a manner that can be used to determine the extent to which the amount of material used for a covered material can be reduced to what is necessary to efficiently deliver a product without damage or spoilage, or other means of covered material redesign to reduce overall use and environmental impacts and maintain recyclability, compostability, or reusability.

(7) For purposes of determining whether reuse performance targets are being met, a plan must provide a methodology for measuring the amount of reusable covered materials at the point at which reusable covered materials meet the following criteria as demonstrated by the producer and approved by the department whether the:

(a) Average minimum number of cycles of reuses within a recognized reuse system has been met based on the number of times an item must be reused for it to have lower environmental impacts than the single-use versions of those items based on accepted industry standards; and

(b) Demonstrated or research-based anticipated return rate of the covered material to the reuse system has been met.

(8) For purposes of determining whether postconsumer recycled content performance targets are being met under this chapter, a plan must provide a methodology for measuring postconsumer recycled content across all producers for a covered materials type where producers may determine their postconsumer recycled content based on their United States market territory if state-specific postconsumer recycled content is impractical to determine.

(9) For other performance targets, the producer responsibility organization must propose methodologies for review and approval as part of the plan based on findings from the needs assessment.

(10)(a) The department must establish statewide requirements and a date by which those requirements must be met for each of the following categories:

(i) Recycling rate;

(ii) Composting rate;

(iii) Reuse rate;

(iv) Return rate;

(v) The percentage of covered materials introduced that must be plastic source reduced; and

(vi) The percentage of postconsumer recycled content that covered materials must contain, including an overall percentage for all covered materials, as applicable, excluding compostable materials that cannot include postconsumer recycled content due to unique chemical or physical properties or health or safety requirements that prohibit introduction of postconsumer recycled content.

(b) The department may use the following information and criteria when establishing statewide requirements under (a) of this subsection:

(i) The needs assessment;

(ii) The goals and requirements of chapter 70A.205 RCW;

(iii) The greenhouse gas emissions limits of chapter 70A.45 RCW;

(iv) The need for continuous progress towards overall reduction in the generation of covered materials waste, the reuse, recycling, or composting of covered materials to reduce environmental impacts and human health impacts, and progress to incorporate postconsumer recycled content to replace virgin materials and support more regional markets;

(v) A preference for statewide requirements that accomplish and further the goals and requirements in (b)(ii) through (iv) of this subsection as soon as practicable and to the maximum extent achievable; and

(vi) Information from packaging and paper product producer responsibility programs operating in other jurisdictions.

(c) The department must consult with producer responsibility organizations on establishing statewide requirements, submit proposed statewide requirements for review by the advisory council, and consider the advisory council's recommendations before finalizing the statewide requirements.

(d) Every five years, the department must review the statewide requirements established under this subsection. If the department decides an update is not warranted at that time, the department must submit the reasoning to the advisory council and consider the advisory council's recommendations before making a final decision. If the department decides an update is warranted, the department must follow the process specified in (b) and (c) of this subsection.

(e) Producer responsibility organizations must ensure the statewide requirements are met.

NEW SECTION. **Sec.**  PRODUCER FEES. (1) A registered producer responsibility organization may charge each member producer a fee according to each producer's unit-based, weight-based, volume-based, or sales-based market share or by another method it determines to be an equitable determination of each producer's payment obligation, so that the aggregate fees charged to member producers is sufficient to pay the producer responsibility organization's costs in full until the producer responsibility organization has an approved plan.

(2) A producer responsibility organization with an approved plan must annually collect a fee from each member producer that must:

(a) Vary based on the total amount of covered materials each producer introduces in the prior year calculated on a per unit basis, such as per ton, per item, or another unit of measurement;

(b) Reflect program costs for each covered materials type, net of commodity value for that covered materials type, as well as allocated fixed costs that do not vary based on covered materials type. Any membership fees charged for different covered material types, materials, and formats must:

(i) For covered materials that are on the statewide lists established under section 109 of this act, be proportional to the costs to the producer responsibility organization for that covered material type, covered material, or format; and

(ii) Discourage the use of covered materials that are not on the statewide lists established under section 109 of this act;

(c) Incentivize using materials and design attributes that reduce the environmental impacts and human health impacts of covered materials by:

(i) Eliminating intentionally added toxic substances or residual toxic substances from manufacturing in covered materials;

(ii) Reducing the amount of:

(A) Packaging per individual covered material that is necessary to efficiently deliver a product without damage or spoilage and without reducing its ability to be recycled or composted; and

(B) Paper used to manufacture individual paper products;

(iii) Increasing the amount of covered materials managed in a reuse system;

(iv) Increasing the proportion of postconsumer material in covered materials;

(v) Enhancing the recyclability or compostability of a covered material;

(vi) Increasing the amounts of inputs derived from renewable and sustainable sources without reducing its ability to be recycled; and

(vii) Other means, as approved by the department;

(d) Discourage using materials and design attributes in covered materials whose environmental impacts and human health impacts can be reduced by the methods listed in (c) of this subsection;

(e) Prioritize reuse by charging covered materials that are managed through a reuse system only once, upon initial entry into the marketplace; and

(f) Generate revenue sufficient to pay in full:

(i) The fee to the department required under section 106 of this act;

(ii) The financial obligations to complete activities described in an approved plan and to reimburse service providers under section 117 of this act;

(iii) The funding required under section 104 of this act for the reuse financial assistance program;

(iv) The operating costs of the producer responsibility organization; and

(v) For establishment and maintenance of a financial reserve that is sufficient to operate the program in a fiscally prudent and responsible manner.

(3) Revenues collected under this section that exceed the amount needed to pay the costs described in subsection (2)(f) of this section must be used to improve or enhance program outcomes or to reduce producer fees according to provisions of an approved plan.

(4) Fees collected under this section may not be used for lobbying or political advocacy activities that would require reporting under chapter 42.17A RCW.

NEW SECTION. **Sec.**  SERVICE PROVIDER REIMBURSEMENT. (1) The reimbursements provided for covered services to covered entities under an approved plan must only be provided to service providers that, at a minimum, meet the performance standards established under an approved plan.

(2)(a) A plan must provide a methodology for reimbursement rates for covered services for covered materials, exclusive of exempt materials. The methodology for reimbursement rates must consider estimated revenue received by service providers from the sale of covered materials based on relevant material indices and incorporate relevant cost information identified by the needs assessment. Reimbursement rates must be annually updated and reflect the net costs for covered services for covered materials from entities receiving services under this chapter, at a minimum. Reimbursement rates must be established equivalent to net costs.

(b) Reimbursement rates must be based on the following, as applicable by the service provided:

(i) The cost to collect covered material for recycling, a proportional share of composting, or reuse adjusted to reflect conditions that affect those costs, varied by region or jurisdiction in which the covered services are provided including, but not limited to:

(A) The number and type of covered entities;

(B) Population density;

(C) Collection methods employed;

(D) Distance traveled by collection vehicles to consolidation or transfer facilities, to reuse, recycling, or composting facilities, and to responsible markets;

(E) Other factors that may contribute to regional or jurisdictional cost differences;

(F) The proportion of covered compostable materials within all source separated compostable materials collected or managed through composting; and

(G) The general quality of covered materials collected by service providers;

(ii) The cost to transfer collected covered materials from consolidation or transfer facilities to reuse, processing, recycling, or composting facilities or to responsible markets;

(iii) The cost to:

(A) Sort and process covered materials for sale or use and remove contamination from covered materials by a recycling or composting facility, minus the average fair market value for that covered material based on market indices for the region; and

(B) Manage contamination removed from collected covered material;

(iv) The administrative costs of service providers, including education, public awareness campaigns, and outreach program costs as applicable; and

(v) The costs of covered services for a refill system or covered services provided for reusable covered materials and management of contamination.

(c) A service provider retains all revenue from the sale of covered materials unless otherwise agreed upon by the service provider. Nothing in this chapter may restrict a service provider from charging a fee for covered services of covered materials to the extent that reimbursement from a producer responsibility organization does not cover all costs of services, including continued investment and innovation in operations, operating profits, and returns on investments required by a service provider to provide sustainability of the services.

(d) Reimbursement rates may be calculated per ton, by household, or by another unit of measurement.

(3)(a) Nothing in this section may be construed to require a government entity to agree to operate under a plan. Any government entity that is also a service provider is eligible to be registered with the department and reimbursed per the rates and schedule established in accordance with this section.

(b) Nothing in this chapter restricts the authority of a political subdivision of the state to provide waste management services to residents, to contract with any entity to provide waste management services, or to exercise its authority granted under RCW 35.21.120, 35.21.130, 35.21.152, or 36.58.040. A producer responsibility organization may not restrict or otherwise interfere with a government entity exercising its authority under RCW 35.21.120, 35.21.130, 35.21.152, or 36.58.040 to organize collection of solid waste, including materials collected for recycling or composting, or to extend, renew, or otherwise manage any contracts entered into as a result of exercising such authority or otherwise resulting from a competitive procurement process.

(4) A producer responsibility organization must establish a dispute resolution process utilizing third-party mediators for disputes related to reimbursements.

NEW SECTION. **Sec.**  INFRASTRUCTURE INVESTMENTS. (1) For infrastructure investments, a producer responsibility organization must use a competitive bidding process and publicly post bid opportunities, except that preference must be given to existing facilities and providers of services in the state for waste reduction, refill, reuse, collection, recycling, and composting of covered materials.

(2) A producer or producer responsibility organization may not own or partially own infrastructure that is used to fulfill obligations under this chapter, except in the following circumstances:

(a) A producer may hold an ownership stake in infrastructure used to fulfill obligations under this chapter as long as the stake was held before the effective date of this section and the ownership state is fully disclosed by the producer to the producer responsibility organization;

(b) After a bidding process described in subsection (1) of this section under which no service provider bids on the contract, the producer responsibility organization may make infrastructure investments to implement the requirements of this chapter; or

(c) A producer or producer responsibility organization may own or partially own infrastructure that is used solely for purposes of the reuse financial assistance program.

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

NEW SECTION. **Sec.**  EDUCATION AND OUTREACH. (1) A producer responsibility organization must develop and maintain a public website that uses best practices for accessibility and contains, at a minimum:

(a) Information regarding a process that members of the public may use to contact the producer responsibility organization with questions;

(b) A directory of all service providers operating under the plan administered by the producer responsibility organization, grouped by location or government entity;

(c) Registration materials submitted to the department;

(d) The draft and approved plan and any draft and approved amendments;

(e) The list of exempt materials under this chapter;

(f) Current and all past needs assessments;

(g) Annual reports submitted to the department by the producer responsibility organization;

(h) A link to administrative rules implementing this chapter;

(i) Comments of the advisory council on the documents listed in (d) and (f) of this subsection and the responses of the producer responsibility organization to those comments;

(j) The names of producers and brands that are not in compliance with the requirements of this chapter;

(k) A list, updated at least monthly, of all member producers that will operate under the plan administered by the producer responsibility organization and, for each producer, a list of all brands of the producer's covered materials; and

(l) Education materials on waste reduction, refill, reuse, recycling, and composting for producers and the general public.

(2) A producer responsibility organization must implement education and outreach activities that effectively reach diverse residents and include culturally responsive materials and methods, are accessible, clear, and support the achievement of the performance targets, including by developing and providing educational materials, resources, and campaigns that encourage and support recycling, composting, and reuse behaviors by residents and visitors. Activities must:

(a) Assist producers in improving product labels as a means of informing consumers about refill, reuse, recycling, composting, and other environmentally sound methods of managing covered materials;

(b) Increase public awareness of how to use and manage covered materials in an environmentally sound manner and how to access waste reduction, refill, reuse, recycling, and composting services;

(c) Encourage behavior change to increase participation in waste reduction, refill, reuse, recycling, and composting programs;

(d) Reduce resident confusion regarding the appropriate solid waste collection container or end-of-life management option for each type of covered material; and

(e) Develop and provide education and outreach materials that are able to be used by retail establishments, collectors, government entities, service providers, schools, institutions, youth organizations, and nonprofit organizations.

(3) A producer responsibility organization must coordinate with registered service providers and any government entities that choose to participate in carrying out education and outreach consistent with the plan.

NEW SECTION. **Sec.**  ANNUAL REPORT. (1) By July 1, 2031, and each July 1st thereafter, a producer responsibility organization must submit an annual report to the department that contains, at a minimum, the following information for the previous calendar year:

(a) The amount of covered materials introduced, by covered materials type, reported in the same units used to establish producer fees established under this chapter;

(b) Progress made toward the performance targets reported in the same units used to establish producer fees established under this chapter, and reported statewide and for each county, including:

(i) The amount of covered materials successfully source reduced, reused, recycled, and composted by covered materials type and the strategies or collection methods used; and

(ii) Information about third-party certifications obtained;

(c) The total cost to implement the program and a detailed description of program expenditures by category, including:

(i) The total amount of producer fees collected;

(ii) A description of infrastructure investments made; and

(iii) A breakdown of reimbursements by covered services, entities receiving covered services, and regions of the state;

(d) A copy of a financial audit of program operations conducted by an independent auditor approved by the department that meets the requirements of the *Financial Accounting Standards Board's Accounting Standards* update 2016-14, not-for-profit entities (Topic 958), as it existed as of January 1, 2025;

(e) A description of the program performance problems that emerged in specific locations and efforts taken or proposed by the producer responsibility organization to address them;

(f) A discussion of technical assistance provided to producers regarding toxic substances in covered materials and actions taken by producers to reduce intentionally added toxic substances and residual toxic substances from manufacturing in covered materials beyond compliance with prohibitions already established in law;

(g) A description of public awareness, education, and outreach activities undertaken, including any evaluations conducted of their efficacy, plans for next calendar year's activities, and an evaluation of the process established by the producer responsibility organization to answer questions from consumers regarding collection, recycling, composting, waste reduction, and reuse activities;

(h) A description, which includes quantitative measurements, of changes in levels of access to covered services for covered materials by socially vulnerable populations relative to levels of access to and participation in covered services for covered materials by socially vulnerable populations prior to the implementation of the first plan under this chapter;

(i) A summary of consultations held with the advisory council and how any feedback was incorporated into the report as a result, together with a list of rejected recommendations and the reasons for rejection;

(j) A list of producers found to be out of compliance with this chapter and actions taken by the producer responsibility organization to return producers to compliance, and notification of any producers that are no longer participating in the producer responsibility organization or who have been expelled due to their lack of compliance;

(k) Proposed amendments to the plan to improve program performance or reduce costs, including changes to producer fees, infrastructure investments, or reimbursement rates;

(l) Recommendations for additions or removal of covered materials to or from the recyclable or compostable covered materials lists established under section 109 of this act; and

(m) Information requested by the department to evaluate the effectiveness of the program as it is described in the plan and to assist with determining compliance with this chapter.

(2) A producer responsibility organization that fails to meet a performance target approved in a plan must, within 90 days of filing an annual report under this section, file with the department an explanation of the factors contributing to the failure and propose an amendment to the plan specifying changes in operations, including education and outreach, that the producer responsibility organization will make that are designed to achieve the performance targets. If a performance target is unmet due to the lack of government entity participation in the program, the department may revise the statewide requirements. If a revision to the statewide requirements is completed by the department, the producer responsibility organization may revise the performance targets at the same time. An amendment filed under this subsection must be reviewed by the advisory council and approved by the department in the manner specified in section 106 of this act.

NEW SECTION. **Sec.**  INDEPENDENT REVIEW OF PROGRAM. (1) By September 1, 2038, the department must contract with an independent consultant to analyze the impacts of the initial seven years of program implementation and must submit a report summarizing the analysis to the appropriate committees of the legislature. The analysis must include the effects of the program on:

(a) Solid waste, composting, or recycling costs;

(b) Recycling rates and composting rates; and

(c) The availability and convenience of recycling, composting, and reuse services, including specific analysis of the availability and convenience of recycling, composting, and reuse services used by socially vulnerable populations.

(2)(a) The independent consultant, for purposes of the independent review of the program carried out under this section, may review:

(i) Information submitted to the department under section 120 of this act; and

(ii) Producer or producer responsibility organization data or information pertinent to the program.

(b) The independent consultant must treat confidential records in a manner consistent with the department's policy under section 122 of this act.

(3) To the extent that sufficient state-level data is not available to complete the analyses required in subsection (1) of this section, the independent consultant may review data or studies from states with similar programs.

NEW SECTION. **Sec.**  CONFIDENTIAL INFORMATION SUBMISSION. A producer responsibility organization, service provider, material recovery facility, organic material management facility, responsible market, or other entity that submits information or records to the department under this chapter may request that the information or records, including data related to business profits, service rates, fees, or business expenses or private data on individuals, be made available only for the confidential use of the department, the director of the department, the appropriate division of the department, or the independent consultant carrying out the independent review of the program in section 121 of this act. The director of the department must consider the request and if this action is not detrimental to the public interest and is otherwise in accordance with the policies and purposes of chapter 43.21A RCW, the director must grant the request for the information to remain confidential as authorized in RCW 43.21A.160.

NEW SECTION. **Sec.**  ENFORCEMENT AUTHORITY. (1)(a) The department may administratively impose a civil penalty of up to $1,000 per violation per day on any producer who violates this chapter and up to $10,000 per violation per day for the second and each subsequent violation.

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

(2)(a) The department may administratively impose a civil penalty of up to $1,000 per violation per day on any producer responsibility organization that violates this chapter and up to $10,000 per violation per day for the second and each subsequent violation.

(b) The department may, in addition to assessing the penalties provided in (a) of this subsection, take any combination of the following actions:

(i) Issue a corrective action order to a producer responsibility organization;

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

(iii) Revoke the producer responsibility organization's plan approval and require implementation of the contingency plan;

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

(v) Require additional reporting related to the area of noncompliance.

(c) Prior to taking an action described in this subsection, the department must provide the producer responsibility organization an opportunity to respond to or rebut the written finding upon which the action is predicated.

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

(a) The department shall serve, or send with delivery confirmation, a written warning explaining the violation to a person distributing or selling covered materials of a producer that is not in compliance with this chapter.

(b) The department may assess a penalty on a person that continues to sell or distribute covered materials of a producer that is in violation of this chapter 60 days after receipt of the written warning under this subsection. The amount of the penalty that the department may assess under this subsection is twice the value of the covered materials sold in violation of this chapter or $500, whichever is greater. The department must waive the penalty upon verification that the person has discontinued distribution or sales of the covered material within 30 days of the date the penalty is assessed.

(4) Any person who incurs a penalty or receives an order may appeal the penalty or order to the pollution control hearings board established in chapter 43.21B RCW.

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

(6) Upon receipt of a request from the advisory council, the department must consider the appropriateness of the use of enforcement authority authorized in this section.

NEW SECTION. **Sec.**  DEPOSIT RETURN SYSTEM. (1) It is the intent of the legislature that if a bottle deposit return system is enacted in the future, it will be harmonized with this chapter in a manner that ensures that:

(a) Materials covered in that system are exempt from this chapter or related financial obligations are reduced;

(b) Colocation of drop-off collection sites is maximized;

(c) Education and outreach are integrated between the two programs; and

(d) Waste reduction and reuse strategies are prioritized between the two programs.

(2) Any implementation of a bottle deposit return system must include a two-year transition period before the expiration of the currently approved plan and be conducted in a manner that does not create sudden and significant operational or financial disruption to the implementation of a plan under this chapter, including provisions of recycling or reuse services contained in the plan.

NEW SECTION. **Sec.**  PETITION FOR THE EXCLUSION OF CERTAIN PRODUCTS. (1) Except as provided in subsection (4) of this section, one year prior to the submission of a plan, a producer, group of producers, or a producer responsibility organization may submit a petition to the department to request for reasons of public health or safety the temporary exclusion of packaging used to contain the following categories of products, subcategories of the following categories of products, or individual products:

(a) Products regulated under the poison prevention packaging act of 1970; and

(b) Products subject to requirements under federal laws that make their inclusion in the requirements of this chapter infeasible or inadvisable.

(2) A petition must provide information that is necessary and sufficient for the department to make a determination including, at a minimum, the following:

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

(b) An analysis of any potential risks to public health and safety associated with the inclusion of a category of product, subcategory of product, or individual product in the program created by this chapter, and in recycling the packaging of the product or products; and

(c) The progress made by producers in achieving the goals of this chapter, including by reducing the amount of packaging used with the products, increasing the recycled content of the product packaging, and increasing the ability of the products' packaging to be reused, composted, or recycled if appropriate.

(3) The department must make a determination and notify the petitioner within 90 days of receipt of the petition.

(4) The producer of a product that is temporarily excluded from the requirements of this chapter under this section must report, directly to the department in a form created by the department, the information related to the temporarily excluded product that is required to be reported to the department by producer responsibility organizations under sections 103 and 120 of this act.

NEW SECTION. **Sec.**  OTHER. (1) Nothing in this act impacts an entity's eligibility for any state or local incentive or assistance program to which they are otherwise eligible. Nothing in this act limits the authority of private parties or government entities to enter into contracts.

(2) Nothing in this chapter authorizes the department or a producer responsibility organization to impose any requirement, in direct conflict with a federal law or regulation including, but not limited to:

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

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

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

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

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

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

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

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

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

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

(3) No penalty may be assessed under this chapter on an individual or resident for the improper disposal of covered materials in a noncommercial or residential setting.

(4) Nothing in this chapter limits the authority of the utilities and transportation commission to regulate collection of solid waste, including curbside collection of residential recyclable materials, in accordance with chapter 81.77 RCW.

NEW SECTION. **Sec.**  ACCOUNT. The responsible recycling management account is created in the custody of the state treasurer. All receipts received by the department under this chapter must be deposited in the account. Only the director of the department or the director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. Expenditures from the account may be used by the department only for implementing, administering, and enforcing the requirements of this chapter. It is the intent of the legislature that the portion of the producer responsibility organization fee received in 2026 for the costs of the department in fiscal year 2026 be transferred to whichever state account was used to cover the costs of the department prior to the payment of the producer responsibility organization fee in 2026.

**Part Two**

**Amendments to Existing Solid Waste Management Laws**

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

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

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

(2) The estimated long-range needs for solid waste handling facilities projected ((~~twenty~~)) 20 years into the future.

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

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

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

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

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

(4) A program for surveillance and control.

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

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

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

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

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

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

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

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

(b) Source separation strategies, including:

(i) Programs for the collection of source separated materials from residences ((~~in urban and rural areas. In urban areas, these~~)).

(A) Until January 1, 2030, these programs shall include collection of source separated recyclable materials from single and multiple-family residences, in urban areas, unless the department approves an alternative program, according to the criteria in the planning guidelines. Such criteria shall include: Anticipated recovery rates and levels of public participation, availability of environmentally sound disposal capacity, access to markets for recyclable materials, unreasonable cost impacts on the ratepayer over the six-year planning period, utilization of environmentally sound waste reduction and recycling technologies, and other factors as appropriate. In rural areas, these programs shall include but not be limited to drop-off boxes, buy-back centers, or a combination of both, at each solid waste transfer, processing, or disposal site, or at locations convenient to the residents of the county. The drop-off boxes and buy-back centers may be owned or operated by public, nonprofit, or private persons;

(B) Except as provided in (b)(i)(C) of this subsection, beginning January 1, 2030, these programs shall:

(I) Provide curbside collection of source separated recyclable materials from single-family and multiple-family residences wherever curbside garbage collection services are provided to these entities;

(II) Include materials on the statewide collection list designated for residential collection established by the department; and

(III) Include service standards for curbside collection frequency, container size, and method of collection, established under plans approved by the department under chapter 70A.--- RCW (the new chapter created in section 401 of this act);

(C) A county may, by ordinance, direct that the full list of materials on the statewide collection list identified as suitable for residential collection be collected exclusively through drop-off locations in areas regulated by the utilities and transportation commission under the provisions of chapter 81.77 RCW if the areas were designated as rural in the county solid waste management plan and no curbside recycling collection service was offered within those areas as of January 1, 2025. Where a county has adopted such an ordinance, the provisions of (b)(i)(B) of this subsection do not apply;

(D) Comprehensive solid waste management plans may incorporate by reference programs described in an approved producer responsibility organization plan under chapter 70A.--- RCW (the new chapter created in section 401 of this act) to fulfill the requirements of this subsection (7)(b)(i) in whole or in part;

(E) Before January 1, 2030, each comprehensive solid waste management plan must be amended, revised, or updated by a jurisdiction consistent with the requirements of this subsection (7)(b)(i). If a comprehensive solid waste management plan has not been amended, revised, or updated before January 1, 2030, to be consistent with the requirements of this subsection (7)(b)(i), beginning January 1, 2030, the model comprehensive solid waste plan amendment provided by the department under section 106 of this act applies in the jurisdiction;

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

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

(iv) Programs to educate and promote the concepts of waste reduction, refill, reuse, and recycling;

(c) Recycling strategies for materials not covered under chapter 70A.--- RCW (the new chapter created in section 401 of this act), including a description of markets for recyclables, a review of waste generation trends, a description of waste composition, a discussion and description of existing programs and any additional programs needed to assist public and private sector recycling, and an implementation schedule for the designation of specific materials to be collected for recycling, and for the provision of recycling collection services;

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

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

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

(10) A contamination reduction and outreach plan. The contamination reduction and outreach plan must address reducing contamination in recycling. Except for counties with a population of ((~~twenty-five thousand~~)) 25,000 or fewer, by July 1, 2021, a contamination reduction and outreach plan must be included in each solid waste management plan by a plan amendment or included when revising or updating a solid waste management plan developed under this chapter. Jurisdictions may adopt the state's contamination reduction and outreach plan as developed under RCW 70A.205.070 or participate in a producer responsibility organization's plan under chapter 70A.--- RCW (the new chapter created in section 401 of this act) in lieu of creating their own plan. A recycling contamination reduction and outreach plan must include the following:

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

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

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

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

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

**Sec.**  RCW 70A.205.500 and 1988 c 175 s 3 are each amended to read as follows:

((~~The department of ecology, at~~)) At the request of a local government jurisdiction, the department or a producer responsibility organization implementing a plan under chapter 70A.--- RCW (the new chapter created in section 401 of this act) may periodically provide educational material promoting household waste reduction and recycling to public and private refuse haulers. The educational material shall be distributed to households receiving refuse collection service by local governments or the refuse hauler providing service. The refuse hauler may distribute the educational material by any means that assures timely delivery.

Reasonable expenses incurred in the distribution of this material shall be considered, for rate-making purposes, as legitimate operating expenses of garbage and refuse haulers regulated under chapter 81.77 RCW.

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

(1) The commission shall supervise and regulate every solid waste collection company in this state,

((~~(1)~~)) (a) By fixing and altering its rates, charges, classifications, rules and regulations;

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

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

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

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

((~~(6)~~)) (f) By reviewing producer responsibility organization reimbursement of regulated service providers consistent with the requirements of chapter 70A.--- RCW (the new chapter created in section 401 of this act);

(g) By requiring certificate holders under this chapter ((~~81.77 RCW~~)) to use rate structures and billing systems consistent with the solid waste management priorities set forth under RCW 70A.205.005 and the minimum levels of solid waste collection and recycling services pursuant to local comprehensive solid waste management plans. The commission may order consolidated billing and provide for reasonable and necessary expenses to be paid to the administering company if more than one certificate is granted in an area; and

(h) By requiring certificate holders under this chapter to deliver covered materials only to responsible markets, as those terms are defined in section 102 of this act.

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

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

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

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

(b) All known and measurable costs related to implementation of the approved county or city comprehensive solid waste management plan; and

(c) All costs related to the implementation of curbside recycling collection services performed by a solid waste collection company consistent with chapter 70A.--- RCW (the new chapter created in section 401 of this act).

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

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

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

(1) The commission shall allow solid waste collection companies collecting recyclable materials other than covered materials collected under an approved plan in chapter 70A.--- RCW (the new chapter created in section 401 of this act) to retain up to ((~~fifty~~)) 50 percent of the revenue paid to the companies for the material if the companies submit a plan to the commission that is certified by the appropriate local government authority as being consistent with the local government solid waste plan and that demonstrates how the revenues will be used to increase recycling. The remaining revenue shall be passed to residential customers.

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

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

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

**Part Three**

**Other Conforming Amendments and Miscellaneous Provisions**

**Sec.**  RCW 43.21B.110 and 2024 c 347 s 5, 2024 c 340 s 4, and 2024 c 339 s 16 are each reenacted and amended to read as follows:

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

(a) Civil penalties imposed pursuant to chapter 70A.230 RCW and RCW 18.104.155, 70A.15.3160, 70A.300.090, 70A.20.050, 70A.230.020, 70A.205.280, 70A.355.070, 70A.430.070, 70A.500.260, 70A.505.100, 70A.505.110, 70A.530.040, 70A.350.070, 70A.515.060, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080, 70A.245.130, 70A.245.140, 70A.65.200, 70A.455.090, 70A.550.030, 70A.555.110, 70A.560.020, section 123 of this act, 70A.565.030, 76.09.170, 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

(b) Orders issued pursuant to RCW 18.104.043, 18.104.060, 18.104.130, 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.15.4530, 70A.15.6010, 70A.205.280, 70A.214.140, 70A.300.120, 70A.350.070, 70A.245.020, 70A.65.200, 70A.505.100, 70A.555.110, 70A.560.020, section 123 of this act, 70A.565.030, 86.16.020, 88.46.070, 90.03.665, 90.14.130, 90.46.250, 90.48.120, 90.48.240, 90.56.330, and 90.64.040.

(c) Except as provided in RCW 90.03.210(2), the issuance, modification, or termination of any permit, certificate, or license by the department or any air authority in the exercise of its jurisdiction, including the issuance or termination of a waste disposal permit, the denial of an application for a waste disposal permit, the modification of the conditions or the terms of a waste disposal permit, a decision to approve or deny a solid waste management plan under RCW 70A.205.055, approval or denial of an application for a beneficial use determination under RCW 70A.205.260, an application for a change under RCW 90.03.383, or a permit to distribute reclaimed water under RCW 90.46.220.

(d) Decisions of local health departments regarding the granting or denial of solid waste permits pursuant to chapter 70A.205 RCW, including appeals by the department as provided in RCW 70A.205.130.

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

(f) Decisions of the department regarding waste-derived fertilizer or micronutrient fertilizer under RCW 15.54.820.

(g) Decisions of local conservation districts related to the denial of approval or denial of certification of a dairy nutrient management plan; conditions contained in a plan; application of any dairy nutrient management practices, standards, methods, and technologies to a particular dairy farm; and failure to adhere to the plan review and approval timelines in RCW 90.64.026 as provided in RCW 90.64.028.

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

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

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

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

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

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

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

(o) Orders by the department of ecology under RCW 70A.455.080.

(p) Decisions by the department of ecology under section 115(5) of this act regarding a proposal by a producer responsibility organization to count materials sent to an alternative recycling facility towards recycling performance targets.

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

(a) Hearings required by law to be conducted by the shorelines hearings board pursuant to chapter 90.58 RCW, except where appeals to the pollution control hearings board and appeals to the shorelines hearings board have been consolidated pursuant to RCW 43.21B.340.

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

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

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

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

**Sec.**  RCW 43.21B.300 and 2024 c 347 s 6 and 2024 c 340 s 5 are each reenacted and amended to read as follows:

(1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160, 70A.205.280, 70A.230.080, 70A.300.090, 70A.20.050, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080, 70A.245.130, 70A.245.140, 70A.65.200, 70A.430.070, 70A.455.090, 70A.500.260, 70A.505.110, 70A.555.110, 70A.560.020, section 123 of this act, 70A.565.030, 86.16.081, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102 and chapter 70A.355 RCW shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the penalty from the department or the local air authority, describing the violation with reasonable particularity. For penalties issued by local air authorities, within 30 days after the notice is received, the person incurring the penalty may apply in writing to the authority for the remission or mitigation of the penalty. Upon receipt of the application, the authority may remit or mitigate the penalty upon whatever terms the authority in its discretion deems proper. The authority may ascertain the facts regarding all such applications in such reasonable manner and under such rules as it may deem proper and shall remit or mitigate the penalty only upon a demonstration of extraordinary circumstances such as the presence of information or factors not considered in setting the original penalty.

(2) Any penalty imposed under this section may be appealed to the pollution control hearings board in accordance with this chapter if the appeal is filed with the hearings board and served on the department or authority 30 days after the date of receipt by the person penalized of the notice imposing the penalty or 30 days after the date of receipt of the notice of disposition by a local air authority of the application for relief from penalty.

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

(a) 30 days after receipt of the notice imposing the penalty;

(b) 30 days after receipt of the notice of disposition by a local air authority on application for relief from penalty, if such an application is made; or

(c) 30 days after receipt of the notice of decision of the hearings board if the penalty is appealed.

(4) If the amount of any penalty is not paid to the department within 30 days after it becomes due and payable, the attorney general, upon request of the department, shall bring an action in the name of the state of Washington in the superior court of Thurston county, or of any county in which the violator does business, to recover the penalty. If the amount of the penalty is not paid to the authority within 30 days after it becomes due and payable, the authority may bring an action to recover the penalty in the superior court of the county of the authority's main office or of any county in which the violator does business. In these actions, the procedures and rules of evidence shall be the same as in an ordinary civil action.

(5) All penalties recovered shall be paid into the state treasury and credited to the general fund except the following:

(a) Penalties imposed pursuant to RCW 18.104.155 must be credited to the reclamation account as provided in RCW 18.104.155(7);

(b) Penalties imposed pursuant to RCW 70A.15.3160 must be disposed of pursuant to RCW 70A.15.3160;

(c) Penalties imposed pursuant to RCW 70A.230.080, 70A.300.090, 70A.430.070, 70A.555.110, ((~~and~~)) 70A.560.020, and 70A.565.030 must be credited to the model toxics control operating account created in RCW 70A.305.180;

(d) Penalties imposed pursuant to RCW 70A.245.040 and 70A.245.050 must be credited to the recycling enhancement account created in RCW 70A.245.100;

(e) Penalties imposed pursuant to RCW 70A.500.260 must be deposited into the electronic products recycling account created in RCW 70A.500.130;

(f) Penalties imposed pursuant to RCW 70A.65.200 must be credited to the climate investment account created in RCW 70A.65.250;

(g) Penalties imposed pursuant to RCW 90.56.330 must be credited to the coastal protection fund established in RCW 90.48.390; ((~~and~~))

(h) Penalties imposed pursuant to RCW 70A.355.070 must be credited to the underground storage tank account created in RCW 70A.355.090; and

(i) Penalties imposed pursuant to chapter 70A.--- RCW (the new chapter created in section 401 of this act), which shall be credited to the recycling enhancement account created in RCW 70A.245.100.

NEW SECTION. **Sec.**  LITTER TAX STUDY. (1) In consultation with producer responsibility organizations registered with the department of ecology under chapter 70A.--- RCW (the new chapter created in section 401 of this act), the department of ecology and, for the purposes of (c) of this subsection, the department of revenue must study:

(a) The impacts of producer requirements under chapter 70A.--- RCW (the new chapter created in section 401 of this act) on the litter rates of covered materials under that chapter;

(b) The extent to which covered materials contribute to litter and marine debris for the purpose of informing how a producer responsibility organization implementing a plan can support litter and marine debris prevention as it relates to activities required under chapter 70A.--- RCW (the new chapter created in section 401 of this act). The assessment should draw on available data, assess gaps, and identify strategies for improving prevention and cleanup of litter and marine debris from covered materials; and

(c) Possible improvements to the structure of the litter tax under chapter 82.19 RCW including administration, compliance, and distribution of the tax and application of the tax to certain products, for achieving the purpose of chapter 82.19 RCW. The improvements to the structure of the litter tax to be studied under this section may not include an increase in the rate of the litter tax under chapter 82.19 RCW or an expansion of the types of covered materials under chapter 70A.--- RCW (the new chapter created in section 401 of this act) that are subject to the litter tax.

(2) By January 1, 2030, the department of ecology, in consultation with the department of revenue, must provide recommendations to the appropriate committees of the legislature on:

(a) Applicability of the litter tax to covered materials, based on whether the purpose of the litter tax under chapter 82.19 RCW is being achieved for those materials by the requirements of producers under chapter 70A.--- RCW (the new chapter created in section 401 of this act); and

(b) Improvements to the structure of the litter tax for meeting the purposes of chapter 82.19 RCW.

(3) This section expires July 1, 2030.

NEW SECTION. **Sec.**  A new section is added to chapter 49.46 RCW to read as follows:

(1) Owners or operators of a material recovery facility that manages covered materials under chapter 70A.--- RCW (the new chapter created in section 401 of this act) must ensure that workers at the facility receive minimum industry standard compensation.

(2) Employers are not required to establish "usual benefit" programs. However, if an employer chooses not to provide such benefits, wages paid must be at the full minimum industry standard rate.

(3) If more than one collective bargaining agreement exists that covers similar or equivalent work in the same geographic area, the higher rate applies.

(4) The minimum industry standard compensation requirements of this section constitute a wage payment requirement as defined in RCW 49.48.082. The department of labor and industries may otherwise enforce this provision as a wage under RCW 49.48.040 through 49.48.080 and the applicable provisions of chapter 49.52 RCW.

(5)(a) The director may initiate an investigation without an employee's complaint to ensure compliance with this section. The department of labor and industries may also initiate an investigation on behalf of one or more employees when the director has reason to believe that a violation has occurred or will occur.

(b) The department of labor and industries may conduct a consolidated investigation for any alleged violation identified under this section, or associated rules, when there are common questions of law or fact. If the department of labor and industries consolidates such matters into a single investigation, the department of labor and industries must provide notice to the employer.

(c) The department of labor and industries may request that an employer perform a self-audit of any records relating to this section, which must be provided within a reasonable time. Reasonable timelines will be specified in the self-audit request. The department of labor and industries must determine reasonable time based on the number of affected employees and the period of time covered by the self-audit. The records examined by the employer in order to perform the self-audit must be made available to the department of labor and industries upon request.

(d) Upon request of the department of labor and industries, an employer must notify affected employees in writing that the department is conducting an investigation. The department of labor and industries may require the employer to include a general description of each investigation as part of the notification, including the allegations and whether the notified employee may be affected. The employer may consult with the department of labor and industries to provide the information for the description of the notification of investigation.

(e) Upon receiving a complaint, the department of labor and industries may request or subpoena the records of the material recovery facility.

(f) In addition to any enforcement authority provided in this section or applicable rules, the department of labor and industries may enforce any violation under this section or applicable rules by filing an action in the superior court for the county in which the violation is alleged to have occurred. If the department of labor and industries prevails, the department is entitled to reasonable attorneys' fees and costs, in the amount to be determined by the court.

(6) The department of labor and industries may adopt rules to implement this section.

(7) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Minimum industry standard compensation" means a wage and usual benefits package equal to or greater than the combined hourly wage and usual benefits package set by a collective bargaining agreement that covers similar or equivalent work in a geographic area.

(b) "Rate of contribution" means the effective annual rate of usual benefit contributions for all hours, public and private, worked during the year by an employee (commonly referred to as "annualization" of benefits). The only exemption to the annualization requirements is for defined contribution pension plans that have immediate participation and vesting.

(c)(i) "Usual benefits" includes the amount of:

(A) The rate of contribution irrevocably made by an employer to a trustee or to a third person pursuant to a fund, plan, or program; and

(B) The rate of costs to the employer, which may be reasonably anticipated in providing benefits to workers pursuant to an enforceable commitment to carry out a financially responsible plan or program that was communicated in writing to the workers affected, for medical or hospital care, pensions on retirement or death, compensation for all injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing, for unemployment benefits, life insurance, disability and sickness insurance, or accident insurance, for vacation and holiday pay, for defraying costs of apprenticeship or other similar programs, or for other bona fide fringe benefits, but only where the employer is not required by other federal, state, or local law to provide any of these benefits.

(ii) To be deemed a "usual benefit," both of the following requirements must be satisfied:

(A) Employer payments for the usual benefit are made only in conformance with all applicable federal and state laws, including the requirements of the employment retirement income security act of 1974, as amended, and of the internal revenue service; and

(B) Employee payments toward the usual benefit, through self-contribution, payroll deduction, or otherwise, do not constitute a credit to the employer for minimum industry standard compensation purposes.

**Sec.**  RCW 49.48.082 and 2010 c 42 s 1 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this section and RCW 49.48.083 through 49.48.086:

(1) "Citation" means a written determination by the department that a wage payment requirement has been violated.

(2) "Department" means the department of labor and industries.

(3) "Determination of compliance" means a written determination by the department that wage payment requirements have not been violated.

(4) "Director" means the director of the department of labor and industries, or the director's authorized representative.

(5) "Employee" has the meaning provided in: (a) RCW 49.46.010 for purposes of a wage payment requirement set forth in RCW 49.46.020 or 49.46.130; and (b) RCW 49.12.005 for purposes of a wage payment requirement set forth in RCW 49.48.010, 49.52.050, or 49.52.060.

(6) "Employer" has the meaning provided in RCW 49.46.010 for purposes of a wage payment requirement set forth in RCW 49.46.020, 49.46.130, 49.48.010, 49.52.050, or 49.52.060.

(7) "Notice of assessment" means a written notice by the department that, based on a citation, the employer shall pay the amounts assessed under RCW 49.48.083.

(8) "Repeat willful violator" means any employer that has been the subject of a final and binding citation and notice of assessment for a willful violation of a wage payment requirement within three years of the date of issue of the most recent citation and notice of assessment for a willful violation of a wage payment requirement.

(9) "Successor" means any person to whom an employer quitting, selling out, exchanging, or disposing of a business sells or otherwise conveys in bulk and not in the ordinary course of the employer's business, more than ((~~fifty~~)) 50 percent of the property, whether real or personal, tangible or intangible, of the employer's business.

(10) "Wage" has the meaning provided in RCW 49.46.010.

(11) "Wage complaint" means a complaint from an employee to the department that asserts that an employer has violated one or more wage payment requirements and that is reduced to writing.

(12) "Wage payment requirement" means a wage payment requirement set forth in RCW 49.46.020, 49.46.130, 49.48.010, 49.52.050, ((~~or~~)) 49.52.060, or section 304 of this act, and any related rules adopted by the department.

(13) "Willful" means a knowing and intentional action that is neither accidental nor the result of a bona fide dispute, as evaluated under the standards applicable to wage payment violations under RCW 49.52.050(2).

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

NEW SECTION. **Sec.**  If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2025, in the omnibus appropriations act, this act is null and void.

**Part Four**

**Codification Directives**

NEW SECTION. **Sec.**  Sections 101 through 127 of this act constitute a new chapter in Title 70A RCW.

**--- END ---**