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**SUBSTITUTE HOUSE BILL 1150**

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**State of Washington**

**69th Legislature**

**2025 Regular Session**

**By** House Environment & Energy (originally sponsored by Representatives Berry, Donaghy, Ryu, Ramel, Farivar, Mena, Alvarado, Duerr, Reed, Fitzgibbon, Callan, Macri, Doglio, Fosse, Simmons, Street, Pollet, Kloba, Nance, Davis, Ormsby, Salahuddin, and Hill)

READ FIRST TIME 02/13/25.

1 AN ACT Relating to improving Washington's solid waste management  
2 outcomes; amending RCW 70A.205.045, 70A.205.500, 81.77.030,  
3 81.77.160, 81.77.185, and 70A.245.100; reenacting and amending RCW  
4 43.21B.110, 43.21B.300, and 49.48.082; adding a new section to  
5 chapter 49.46 RCW; adding a new chapter to Title 70A RCW; creating  
6 new sections; prescribing penalties; and providing an expiration  
7 date.

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

9 **Part One**

10 **Providing for Producer Responsibility in the Management**  
11 **of Packaging and Paper Products**

12 NEW SECTION. **Sec. 101.** FINDINGS—INTENT. (1) The legislature  
13 finds that, as of 2025:

14 (a) Washington's statewide waste recovery rate has been generally  
15 static since 2011 and Washington is not meeting the statewide goal of  
16 50 percent recycling established in 1989; and

17 (b) Many residents, particularly those who live in rural areas  
18 and in multifamily residences, do not have access to convenient or  
19 affordable curbside recycling, and must rely on taking recyclables to  
20 drop box locations, and that extended producer responsibility

1 programs could make curbside recycling available and affordable for  
2 most people in the state.

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

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

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

25 NEW SECTION. **Sec. 102.** DEFINITIONS. The definitions in this  
26 section apply throughout this chapter unless the context clearly  
27 requires otherwise.

28 (1) "Advisory council" means the council established in section  
29 105 of this act.

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

32 (3) (a) "Beverage" means a drinkable liquid intended for human  
33 oral consumption.

34 (b) "Beverage" does not include: (i) A drug regulated under the  
35 federal food, drug, and cosmetic act, 21 U.S.C. Sec. 301 et seq.;  
36 (ii) 100 percent fluid milk; (iii) infant formula; or (iv) a meal  
37 replacement liquid.

38 (4) "Beverage container" means any container in which a producer  
39 originally prepackaged and sealed a beverage.

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

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

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

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

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

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

21 (11) "Contamination" means:

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

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

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

29 (a) A single-family residence;

30 (b) A multifamily residence; and

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

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

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

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

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

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

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

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

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

15 (ii) Land disposal.

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

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

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

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

22 (ii) Beginning January 1, 2031, less than \$5,000,000, as adjusted  
23 for inflation. The department must use the consumer price index for  
24 urban wage earners to calculate the annual rate of inflation  
25 adjustment effective January 1st of each year, beginning January 1,  
26 2031; or

27 (c) Is an agricultural employer, as defined in RCW 19.30.010,  
28 regardless of where the agricultural employer is located, with less  
29 than \$5,000,000, as adjusted for inflation as described in (b) of  
30 this subsection, in gross revenue in Washington from consumer sales  
31 of agricultural commodities sold under the brand name of the  
32 agricultural employer.

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

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

37 (19) "Exempt materials" means materials, or any portion of  
38 materials, that are:

39 (a) Packaging for infant formula, as defined in 21 U.S.C. Sec.  
40 321(z);

1 (b) Packaging for medical food, as defined in 21 U.S.C. Sec.  
2 360ee(b)(3);

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

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

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

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

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

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

32 (i) Packaging used to contain hazardous or flammable products  
33 classified by the 2012 federal occupational safety and health  
34 administration hazard communication standard, 29 C.F.R. Sec.  
35 1910.1200 (2024), that prevent the packaging from being reduced or  
36 made reusable, recyclable, or compostable, as determined by the  
37 department;

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

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

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

5 (m) Covered materials that:

6 (i) A producer distributes to another producer;

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

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

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

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

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

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

21 (iv) (A) The producer annually demonstrates to the department that  
22 the material has had a state recycling rate of 65 percent for three  
23 consecutive years, until December 31, 2029. Beginning January 1,  
24 2030, the producer must demonstrate to the department every two years  
25 that the material has had a state recycling rate of at least 70  
26 percent annually; or

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

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

39 (20) "Government entity" means any:

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

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

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

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

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

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

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

19 (24) "Overburdened communities" means the overburdened  
20 communities identified and prioritized by the department under RCW  
21 70A.02.050(1)(a).

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

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

27 (26) "Paper product" means paper sold or supplied to a consumer  
28 for personal, noncommercial use, including flyers, brochures,  
29 booklets, catalogs, magazines, printed paper, and all other paper  
30 materials except for: (a) Bound books; (b) conservation-grade and  
31 archival-grade paper; (c) newspapers, including supplements or  
32 enclosures; (d) magazines that have a circulation of fewer than  
33 95,000 and that includes content derived from primary sources related  
34 to news and current events; (e) copy paper; (f) paper for use in  
35 building construction; and (g) paper that could reasonably be  
36 anticipated to become unsafe or unsanitary to handle.

37 (27)(a) "Plastic source reduction" means the reduction in the  
38 amount of covered plastic material introduced by a producer relative  
39 to a baseline year of 2023, or relative to an alternative baseline  
40 year of no earlier than 2013 where a producer submits data

1 documenting the plastic source reduction to a producer responsibility  
2 organization. Methods of source reduction include, but are not  
3 limited to, shifting covered material to reusable or refillable  
4 packaging or a reusable product, eliminating unnecessary packaging,  
5 or reducing the packaging to product ratio. "Plastic source  
6 reduction" must include elimination, which means the removal of  
7 plastic covered materials.

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

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

13 (ii) Switching from virgin covered material to postconsumer  
14 recycled content, except as allowed under an alternative compliance  
15 formula in section 115(6) of this act.

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

4 (A) Where another person has mutually signed an agreement with a  
5 producer as defined in (a)(i) through (v) of this subsection that  
6 contractually assigns responsibility to the person as the producer,  
7 and the person has joined a registered producer responsibility  
8 organization as the responsible producer for that covered material  
9 under this chapter. If another person is assigned responsibility as  
10 the producer under this subsection, the producer under (a)(i) through  
11 (v) of this subsection must provide written certification of that  
12 contractual agreement to the producer responsibility organization.  
13 The following persons are not eligible to be the assigned recipient  
14 of responsibility as a producer under this subsection: (I) A person  
15 who produces an agricultural commodity introduced under the brand or  
16 trademark of another manufacturer or person; or (II) a distributor of  
17 a beverage sold in a beverage container; and

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

22 (b) "Producer" does not include:

23 (i) Government entities;

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

26 (iii) De minimis producers.

27 (30) "Producer responsibility organization" means:

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

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

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

36 (31) "Program" means the activities conducted to implement an  
37 approved plan.

38 (32)(a) "Public place" means an indoor or outdoor location open  
39 to and generally used by the public and to which the public is  
40 permitted to have access including, but not limited to, streets,

1 sidewalks, plazas, town squares, public parks, beaches, forests, or  
2 other public land open for recreation or other uses, and  
3 transportation facilities such as bus and train stations, airports,  
4 and ferry terminals.

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

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

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

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

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

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

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

28 (36) "Responsible market" means an entity that:

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

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

36 (c) If the market operates in the state, manages waste according  
37 to the state's solid waste management hierarchy established in RCW  
38 70A.205.005; and

39 (d) Meets the minimum operational standards adopted under a  
40 producer responsibility organization plan to protect the environment,

1 public health, worker health and safety, and minimize adverse impacts  
2 to socially vulnerable populations.

3 (37) "Responsible producer" means a producer that is not a de  
4 minimis producer.

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

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

14 (40) "Reusable" means capable of reuse.

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

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

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

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

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

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

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

38 (44) "Socially vulnerable population" means:

39 (a) Any person residing in a census tract that contains a high  
40 overall social vulnerability index as measured using the United

1 States center for disease control and the agency for toxic substances  
2 and disease registry's social vulnerability index, as it existed as  
3 of January 1, 2025, for the most recent year such data are available;  
4 or

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

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

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

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

18 NEW SECTION. **Sec. 103.** PRODUCER AND PRODUCER RESPONSIBILITY  
19 ORGANIZATION REGISTRATION. (1) By January 1, 2026, each producer must  
20 appoint a producer responsibility organization or producer  
21 responsibility organizations to address its covered materials.

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

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

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

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

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

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

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

9 (4) By September 1, 2026, and each May 1st thereafter, a producer  
10 responsibility organization must submit an annual registration fee to  
11 fund all costs of the department to implement, administer, and  
12 enforce this chapter, including the costs of the department of labor  
13 and industries to implement and enforce section 304 of this act.

14 NEW SECTION. **Sec. 104.** PRODUCER AND PRODUCER RESPONSIBILITY  
15 ORGANIZATION RESPONSIBILITIES. (1) A producer must:

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

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

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

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

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

35 (3) A producer responsibility organization must:

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

37 (ii)(A) Except as provided in (a)(ii)(B) of this subsection, by  
38 September 1, 2026, submit a one-time payment to the department, in  
39 lieu of the registration fee required in section 103 of this act, in

1 an amount determined by the department, to cover the costs of the  
2 department under this chapter from the effective date of this section  
3 through June 30, 2027, including the costs determined by the  
4 department of labor and industries to implement and enforce section  
5 304 of this act;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (5)(a) Each producer responsibility organization must annually  
30 fund and implement a reuse financial assistance program to reduce the  
31 negative environmental impacts of covered materials through reuse.  
32 The reuse financial assistance program must collectively be funded by  
33 registered producer responsibility organizations. The funded amount  
34 must be:

35 (i) At least \$5,000,000 beginning in 2029 and adjusted annually  
36 thereafter for inflation. The producer responsibility organization  
37 must use the consumer price index for urban wage earners to calculate  
38 the annual rate of inflation adjustment effective January 1st of each  
39 year; and



1 (ii) Sufficient to achieve the reuse and return rate targets and  
2 requirements established in section 115 of this act. If at any point  
3 the department determines that reuse and return rate targets or  
4 statewide requirements are not met, each producer responsibility  
5 organization must increase annual contributions to and expenditures  
6 from the reuse financial assistance program.

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

9 (i) Government entities;

10 (ii) Tribal governments;

11 (iii) Nonprofit organizations; and

12 (iv) Private organizations.

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

17 (i) The environmental benefits of the activity;

18 (ii) The human health benefits of the activity;

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

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

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

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

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

33 (7) The activities authorized by this chapter require  
34 collaboration among producers. These activities will enable the waste  
35 reduction, collection, recycling, composting, and disposal of covered  
36 materials in Washington and are therefore in the best interest of the  
37 public. The benefits of collaboration, together with active state  
38 supervision, outweigh potential adverse impacts. Therefore, the  
39 legislature exempts from state antitrust laws, and provides immunity  
40 through the state action doctrine from federal antitrust laws,

1 activities that are undertaken in compliance with and pursuant to  
2 this chapter, including activities that are reviewed or approved by  
3 the department, that might otherwise be constrained by such laws. The  
4 legislature does not intend and does not authorize any person or  
5 entity to engage in activities not provided for by this chapter, and  
6 the legislature neither exempts nor provides immunity for such  
7 activities.

8 NEW SECTION. **Sec. 105.** ADVISORY COUNCIL. (1) The advisory  
9 council is established to review all activities conducted by producer  
10 responsibility organizations under this chapter and to advise the  
11 department and producer responsibility organizations regarding the  
12 implementation of this chapter.

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

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

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

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

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

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

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

29 (g) One member representing a material recovery facility;

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

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

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

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

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

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

8 (n) One nonvoting member representing the department.

9 (3) In appointing members, the department:

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

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

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

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

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

31 (5) Advisory councilmembers that are representatives of tribes,  
32 tribal or indigenous services organizations, community-based  
33 organizations, or environmental nonprofit organizations must, if  
34 requested, be compensated and reimbursed in accordance with RCW  
35 43.03.050, 43.03.060, and 43.03.220.

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

1 (b) Action by the advisory council requires a quorum and a  
2 majority of those present and voting. All members of the advisory  
3 council, except the member appointed to represent the department and  
4 the member appointed to represent the producer responsibility  
5 organization, are voting members of the council.

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

9 (b) Meetings of the advisory council must comply with chapter  
10 42.30 RCW, the open public meetings act.

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

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

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

30 NEW SECTION. **Sec. 106.** DEPARTMENT'S DUTIES. (1) The department  
31 must implement, administer, and enforce this chapter and may adopt  
32 rules as necessary for those purposes.

33 (2) The department must:

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

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

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

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

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

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

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

12 (h)(i) By July 1, 2026, determine the one-time registration fee  
13 in subsection (4)(c) of this section; and

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

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

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

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

25 (l) By January 31, 2029, create a model comprehensive solid waste  
26 plan amendment for use by cities and counties in lieu of updating,  
27 amending, or revising a plan consistent with RCW  
28 70A.205.045(7)(b)(i);

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

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

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

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

1 (q) Establish statewide requirements as required under section  
2 115(10) of this act;

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

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

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

10 (u) Review petitions to exempt materials, as required by section  
11 125 of this act; and

12 (v) Establish a public website that includes:

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

15 (ii) A list of registered service providers;

16 (iii) The most recent needs assessment;

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

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

20 (vi) The list of exempt materials;

21 (vii) Links to producer responsibility organization websites;

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

26 (ix) Links to adopted rules implementing this chapter.

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

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

3 (i) Determine a total annual registration fee to be paid by each  
4 producer responsibility organization that is adequate to cover, but  
5 not exceed, the costs to implement, administer, and enforce this  
6 chapter, including the costs determined by the department of labor  
7 and industries to implement and enforce section 304 of this act, in  
8 the next fiscal year;

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

13 (iii) Until rules are adopted under (a) (ii) of this subsection,  
14 issue a general order to all registered producer responsibility  
15 organizations; and

16 (iv) Send notice to each producer responsibility organization of  
17 fee amounts due, consistent with either the general order issued  
18 under (a) (iii) of this subsection or rules adopted under (a) (ii) of  
19 this subsection.

20 (b) The department must:

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

24 (ii) Apply any remaining annual fee payment funds from the most  
25 recently closed fiscal year to the annual fee for the coming fiscal  
26 year, if the collected annual fee exceeds the costs identified under  
27 (a) (ii) of this subsection for the most recently closed fiscal year;  
28 and

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

33 (c) By July 1, 2026, the department must determine the one-time  
34 registration fee to be paid by each producer responsibility  
35 organization that is adequate to cover, but not exceed, the costs to  
36 implement, administer, and enforce this chapter from the effective  
37 date of this section until June 30, 2027.

38 (5) The department must review and approve, approve with  
39 conditions, deny, or request additional information for a draft plan  
40 or draft amendment, including a contingency plan as required in

1 section 114 of this act, submitted by a producer responsibility  
2 organization or coordinating body, within 120 days of receipt.

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

7 (b) (i) If the department denies or requests additional  
8 information for a draft plan or amendment, the department must  
9 provide the producer responsibility organization with the reasons, in  
10 writing, that the plan or amendment does not meet the plan  
11 requirements of section 113 of this act. The producer responsibility  
12 organization has 60 days from the date that the rejection or request  
13 for additional information is received to submit to the department  
14 any additional information necessary for the department's approval.  
15 The department must review and approve or disapprove the revised  
16 draft plan or amendment no later than 60 days after the department  
17 receives it. If the department disapproves the revised plan or  
18 revised plan amendment, the department shall provide the reason, in  
19 writing, and (A) direct changes to the revised plan or plan amendment  
20 or (B) require the producer responsibility organization to submit a  
21 second revision no later than 60 days from the date of the rejection.

22 (ii) The department may approve the second revision submitted by  
23 the producer responsibility organization with additional conditions  
24 the producer responsibility organization must implement.

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

30 (6) The department must review annual reports and:

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

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

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



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

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

8 NEW SECTION. **Sec. 107.** SERVICE PROVIDER REGISTRATION. (1) By  
9 January 31, 2026, and annually thereafter, each service provider  
10 seeking reimbursement for services provided under an approved plan  
11 must register with the department by submitting the following  
12 information:

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

15 (b) The address of the service provider;

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

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

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

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

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

36 (ii) Inbound material quality and contamination;

37 (iii) Outbound material quality and contamination;

38 (iv) Outbound material tons, destinations, and final use by  
39 commodity type, including each destination company and location. If

1 exported outside of the United States, the destination country must  
2 be listed. Beginning in 2031, material recovery facilities must  
3 submit certification for each destination to which commodities  
4 containing covered materials were sent that the destination is a  
5 responsible market;

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

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

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

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

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

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

23 NEW SECTION. **Sec. 108.** SERVICE PROVIDER RESPONSIBILITIES. A  
24 service provider receiving reimbursement or funding under an approved  
25 plan must:

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

30 (2) Register annually with the department;

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

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

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

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

1 (7) Display the service provider's price, minus the reimbursement  
2 from the producer responsibility organization, when invoicing  
3 customers and, in delivering curbside collection services, pass on  
4 the applicable portion of the reimbursement, through solid waste rate  
5 reductions or credits, to all customers receiving curbside collection  
6 services eligible for reimbursement; and

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

9 NEW SECTION. **Sec. 109.** STATEWIDE COLLECTION LISTS. (1)(a) The  
10 department must develop a list of covered materials determined to be  
11 recyclable or compostable statewide. By October 1, 2026, the  
12 department must develop an initial list for use and evaluation in the  
13 needs assessment described in section 111 of this act. The department  
14 must also publish lists no later than 30 days after approving a plan,  
15 taking into account proposed changes in the plan. In the development  
16 of the lists, the department must distinguish between:

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

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

21 (iii) Materials suitable for public place collection; and

22 (iv) Materials suitable for alternative collection.

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

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

28 (ii) Environmental health and safety considerations;

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

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

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

35 (vi) The amount of the material available;

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

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

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

1 (x) Economic factors;  
2 (xi) Environmental factors from a life-cycle perspective;  
3 (xii) The policy expressed in RCW 70A.205.010; or  
4 (xiii) Other criteria or factors, as determined by the  
5 department.

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

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

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

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

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

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

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

31 NEW SECTION. **Sec. 110.** CONVENIENCE STANDARDS—ALTERNATIVE  
32 COLLECTION. (1) Collection services for covered materials determined  
33 to be suitable for residential recycling collection under section 109  
34 of this act must be available wherever residential garbage collection  
35 services are available, except in areas subject to a county ordinance  
36 as specified in RCW 70A.205.045(7)(b)(i)(C).

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

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

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

7 (i) County population size;

8 (ii) County population density; and

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

10 (c) Ensures materials are sent to responsible markets;

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

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

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

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

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

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

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

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

33 NEW SECTION. **Sec. 111.** STATEWIDE NEEDS ASSESSMENTS. (1)(a) By  
34 December 31, 2026, the department must complete a preliminary  
35 assessment consistent with subsection (3) of this section.

36 (b) By December 31, 2027, and every five years thereafter, the  
37 department must complete a needs assessment consistent with  
38 subsection (4) of this section. The department may adjust the

1 required content in a specific needs assessment to inform the next  
2 plan.

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

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

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

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

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

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

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

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

28 (b) Tons of collected covered materials;

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

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

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

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

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

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

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

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

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

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

20 (a) An evaluation of:

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

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

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

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

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

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

3 (ii) Reuse rates and return rates;

4 (iii) Recycling rates;

5 (iv) Composting rates; and

6 (v) Postconsumer recycled content, if applicable;

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

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

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

12 (iii) The statewide greenhouse gas emissions limits of chapter  
13 70A.45 RCW;

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

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

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

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

29 (f) Recommended collection methods by covered materials type to  
30 maximize collection efficiency, maximize feedstock quality, and  
31 optimize service and convenience for collection of covered materials  
32 to be considered or that are included on lists established in section  
33 109 of this act;

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

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

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



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

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

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

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

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

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

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

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

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

33 (m) An assessment of the level and causes of contamination of  
34 source separated recyclable materials, source separated compostable  
35 materials, and collected reusables, and the impacts of contamination  
36 on service providers and on commodity values of covered material  
37 types, including the cost to manage this contamination;

38 (n) An assessment of toxic substances intentionally added to or  
39 residual from manufacturing in covered materials, whether this limits  
40 one or more covered material types from being used as a marketable

1 feedstock, and best practices producers can implement to reduce  
2 intentionally added or residual toxic substances in covered materials  
3 that could be verified through suppliers' certificates of compliance,  
4 testing, or other analytical and scientifically demonstrated  
5 technology;

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

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

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

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

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

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

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

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

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

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

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

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

6 NEW SECTION. **Sec. 112.** EQUITY STUDY. (1) By January 31, 2032,  
7 the department must complete a study, conducted by a contracted third  
8 party that is not a producer or producer responsibility organization,  
9 of facilities operating in the state that manage covered materials  
10 and at facilities operating in the state that receive covered  
11 materials as recycled feedstock. The study must analyze, at a  
12 minimum, information about:

13 (a) Working conditions, wage and benefit levels, workforce  
14 development effects, and employment levels of minorities and women at  
15 those facilities;

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

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

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

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

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

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

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

1        NEW SECTION.    **Sec. 113.**    PLAN. (1) By October 1, 2028, and every  
2 five years thereafter, a producer responsibility organization must  
3 submit a plan to the department that describes the proposed operation  
4 by the organization of programs to fulfill the requirements of this  
5 chapter and that incorporates the findings and results of needs  
6 assessments.

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

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

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

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

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

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

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

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

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

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

38        (f) A budget identifying funding needs for each of the plan's  
39 five calendar years, producer fees, a description of the process used

1 to calculate the fees, and an explanation of how the fees meet the  
2 requirements of section 116 of this act;

3 (g) A description of infrastructure investments, including:

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

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

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

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

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

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

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

24 (iii) Provide funding to expand and increase the convenience of  
25 waste reduction, refill, reuse, collection, recycling, and composting  
26 services to covered entities, at a minimum, according to the order of  
27 the state's solid waste management hierarchy established in RCW  
28 70A.205.005;

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

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

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

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

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

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

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

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

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

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

17 (ii) Requirements that service providers must offer residential  
18 recycling collection for materials on the applicable list established  
19 by the department under section 109(1) (a) of this act to covered  
20 entities wherever they offer residential garbage collection services,  
21 except in areas subject to a county ordinance as specified in RCW  
22 70A.205.045(7) (b) (i) (C);

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

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

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

33 (m) A requirement that owners or operators of a material recovery  
34 facility that manages over 25,000 tons annually of covered materials  
35 under this chapter comply with the compensation requirements  
36 specified in section 304 of this act;

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

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

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

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

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

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

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

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

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

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

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

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

35 NEW SECTION. **Sec. 114.** CONTINGENCY PLAN. (1) A producer  
36 responsibility organization must submit to the department a  
37 contingency plan demonstrating how the activities in the plan will  
38 continue to be carried out by some other entity, such as an escrow  
39 company, if needed:

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

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

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

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

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

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

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

18 NEW SECTION. **Sec. 115.** PERFORMANCE TARGETS. (1) The producer  
19 responsibility organization must propose performance targets based on  
20 the needs assessment that meet the statewide requirements in  
21 subsection (10) of this section that must be included in an approved  
22 plan. Performance targets must include reuse rates, return rates,  
23 recycling rates for materials delivered to responsible markets,  
24 composting rates, and targets for plastic source reduction and  
25 postconsumer recycled content by covered materials type, as  
26 applicable. For products for which postconsumer recycled content  
27 rates are established in RCW 70A.245.010 through 70A.245.050 and  
28 70A.245.090 (1), (2), and (4), those rates must be included in an  
29 approved plan. The producer responsibility organization must propose  
30 the unit or units that are most appropriate to measure each  
31 performance target as informed by the needs assessment.

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



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

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

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

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

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

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

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

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

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

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

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

1 (B) Generation of hazardous waste;  
2 (C) Energy use and generation of greenhouse gases;  
3 (D) Environmental impacts on overburdened communities and  
4 vulnerable populations;  
5 (E) Water usage including, but not limited to, impacts to local  
6 water resources and sewage infrastructure;  
7 (F) Public health impacts; and  
8 (G) Capture and recycling rates;  
9 (iii) Reduces gaps in collection, recycling, and composting  
10 services at covered entities;  
11 (iv) Meets an unmet need in the state that will result in meeting  
12 recycling performance targets, including creating new recycling  
13 markets for materials currently disposed of in landfills or  
14 incinerated;  
15 (v) Provides third-party certification of recycled content; and  
16 (vi) Addresses those other environmental impacts as determined by  
17 the department.  
18 (d) (i) In making its determination under (c) of this subsection,  
19 the department must take into consideration any local, state, or  
20 federal environmental permitting requirements that govern the  
21 operation of an alternative recycling process that reduces air and  
22 water pollutants or the generation of hazardous waste or pollutants.  
23 The department must also take into consideration whether the  
24 alternative process produces food-grade or pharmaceutical-grade  
25 recycled content.  
26 (ii) The department must publish a determination on the producer  
27 responsibility organization's proposal, detailing why it was approved  
28 or denied and how it measured against the criteria listed in (c) of  
29 this subsection. The department must also conduct a public review  
30 process for at least 60 days.  
31 (e) A person may appeal a decision by the department under (d) of  
32 this subsection to the pollution control hearings board.  
33 (f) The department must, no more frequently than every five  
34 years, require the producer responsibility organization to provide  
35 any updated information deemed necessary that demonstrates that an  
36 approved alternative recycling process is continuing to meet the  
37 requirements of this section. If the facility fails to meet the  
38 requirements of this section, the department shall prohibit the  
39 producer responsibility organization from counting material sent to

1 the alternative recycling facility towards recycling performance  
2 targets.

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

6 (6) For purposes of determining whether plastic source reduction  
7 performance targets are being met, a plan must provide a methodology  
8 for measuring the amount of plastic source reduction of covered  
9 materials in a manner that can be used to determine the extent to  
10 which the amount of material used for a covered material can be  
11 reduced to what is necessary to efficiently deliver a product without  
12 damage or spoilage, or other means of covered material redesign to  
13 reduce overall use and environmental impacts and maintain  
14 recyclability, compostability, or reusability. No more than eight  
15 percent of a producer responsibility organization's plastic source  
16 reduction performance target may be met by switching from virgin  
17 covered material to postconsumer recycled content through a sliding  
18 scale alternative compliance formula developed by the department  
19 based on the ratio of virgin plastic to postconsumer recycled  
20 plastic. For producers subject to the postconsumer recycled content  
21 requirements of chapter 70A.245 RCW, the postconsumer recycled  
22 content used to comply with those requirements may be credited  
23 towards the plastic source reduction performance target, subject to  
24 the eight percent limit.

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

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

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

37 (8) For purposes of determining whether postconsumer recycled  
38 content performance targets are being met under this chapter, a plan  
39 must provide a methodology for measuring postconsumer recycled  
40 content across all producers for a covered materials type where

1 producers may determine their postconsumer recycled content based on  
2 their United States market territory if state-specific postconsumer  
3 recycled content is impractical to determine.

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

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

10 (i) Recycling rate;

11 (ii) Composting rate;

12 (iii) Reuse rate;

13 (iv) Return rate;

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

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

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

25 (i) The needs assessment;

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

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

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

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

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

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

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

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

15 NEW SECTION. **Sec. 116.** PRODUCER FEES. (1) A registered producer  
16 responsibility organization may charge each member producer a fee  
17 according to each producer's unit-based, weight-based, volume-based,  
18 or sales-based market share or by another method it determines to be  
19 an equitable determination of each producer's payment obligation, so  
20 that the aggregate fees charged to member producers is sufficient to  
21 pay the producer responsibility organization's costs in full until  
22 the producer responsibility organization has an approved plan.

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

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

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

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

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

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

- 4 (i) Eliminating intentionally added toxic substances or residual  
5 toxic substances from manufacturing in covered materials;
- 6 (ii) Reducing the amount of:
  - 7 (A) Packaging per individual covered material that is necessary  
8 to efficiently deliver a product without damage or spoilage and  
9 without reducing its ability to be recycled or composted; and
  - 10 (B) Paper used to manufacture individual paper products;
- 11 (iii) Increasing the amount of covered materials managed in a  
12 reuse system;
- 13 (iv) Increasing the proportion of postconsumer material in  
14 covered materials;
- 15 (v) Enhancing the recyclability or compostability of a covered  
16 material;
- 17 (vi) Increasing the amounts of inputs derived from renewable and  
18 sustainable sources without reducing its ability to be recycled; and
- 19 (vii) Other means, as approved by the department;

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

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

26 (f) Generate revenue sufficient to pay in full:

- 27 (i) The fee to the department required under section 106 of this  
28 act;
- 29 (ii) The financial obligations to complete activities described  
30 in an approved plan and to reimburse service providers under section  
31 117 of this act;
- 32 (iii) The funding required under section 104 of this act for the  
33 reuse financial assistance program;
- 34 (iv) The operating costs of the producer responsibility  
35 organization; and
- 36 (v) For establishment and maintenance of a financial reserve that  
37 is sufficient to operate the program in a fiscally prudent and  
38 responsible manner.

39 (3) Revenues collected under this section that exceed the amount  
40 needed to pay the costs described in subsection (2)(f) of this

1 section must be used to improve or enhance program outcomes or to  
2 reduce producer fees according to provisions of an approved plan.

3 (4) Fees collected under this section may not be used for  
4 lobbying or political advocacy activities that would require  
5 reporting under chapter 42.17A RCW or under the federal election  
6 campaign act, 2 U.S.C. chapter 14.

7 NEW SECTION. **Sec. 117.** SERVICE PROVIDER REIMBURSEMENT. (1) The  
8 reimbursements provided for covered services to covered entities  
9 under an approved plan must only be provided to service providers  
10 that, at a minimum, meet the performance standards established under  
11 an approved plan.

12 (2) (a) A plan must provide a methodology for reimbursement rates  
13 for covered services for covered materials, exclusive of exempt  
14 materials. The methodology for reimbursement rates must consider  
15 estimated revenue received by service providers from the sale of  
16 covered materials based on relevant material indices and incorporate  
17 relevant cost information identified by the needs assessment.  
18 Reimbursement rates must be annually updated and reflect the net  
19 costs for covered services for covered materials from entities  
20 receiving services under this chapter, at a minimum. Reimbursement  
21 rates must be established equivalent to net costs, using a  
22 methodology in an approved plan as follows:

23 (i) No less than 50 percent of the net costs by February 15,  
24 2030;

25 (ii) No less than 75 percent of the net costs by February 15,  
26 2031; and

27 (iii) No less than 90 percent of the net costs by February 15,  
28 2032, and each year thereafter.

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

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

36 (A) The number and type of covered entities;

37 (B) Population density;

38 (C) Collection methods employed;

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

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

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

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

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

14 (iii) The cost to:

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

19 (B) Manage contamination removed from collected covered material;

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

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

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

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

37 (3)(a) Nothing in this section may be construed to require a  
38 government entity to agree to operate under a plan. Any government  
39 entity that is also a service provider is eligible to be registered



1 with the department and reimbursed per the rates and schedule  
2 established in accordance with this section.

3 (b) Nothing in this chapter restricts the authority of a  
4 political subdivision of the state to provide waste management  
5 services to residents, to contract with any entity to provide waste  
6 management services, or to exercise its authority granted under RCW  
7 35.21.120, 35.21.130, 35.21.152, or 36.58.040. A producer  
8 responsibility organization may not restrict or otherwise interfere  
9 with a government entity exercising its authority under RCW  
10 35.21.120, 35.21.130, 35.21.152, or 36.58.040 to organize collection  
11 of solid waste, including materials collected for recycling or  
12 composting, or to extend, renew, or otherwise manage any contracts  
13 entered into as a result of exercising such authority or otherwise  
14 resulting from a competitive procurement process.

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

18 NEW SECTION. **Sec. 118.** INFRASTRUCTURE INVESTMENTS. (1) For  
19 infrastructure investments, a producer responsibility organization  
20 must use a competitive bidding process and publicly post bid  
21 opportunities, except that preference must be given to existing  
22 facilities and providers of services in the state for waste  
23 reduction, refill, reuse, collection, recycling, and composting of  
24 covered materials.

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

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

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

38 (c) A producer or producer responsibility organization may own or  
39 partially own infrastructure that is used solely for purposes of the

1 reuse financial assistance program or as needed to fulfill an  
2 individual plan or alternative collection program.

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

8 NEW SECTION. **Sec. 119.** EDUCATION AND OUTREACH. (1) A producer  
9 responsibility organization must develop and maintain a public  
10 website that uses best practices for accessibility and contains, at a  
11 minimum:

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

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

18 (c) Registration materials submitted to the department;

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

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

22 (f) Current and all past needs assessments;

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

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

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

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

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

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

37 (2) A producer responsibility organization must implement  
38 education and outreach activities that effectively reach diverse  
39 residents and include culturally responsive materials and methods,

1 are accessible, clear, and support the achievement of the performance  
2 targets, including by developing and providing educational materials,  
3 resources, and campaigns that encourage and support recycling,  
4 composting, and reuse behaviors by residents and visitors. Activities  
5 must:

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

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

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

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

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

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

25 NEW SECTION. **Sec. 120.** ANNUAL REPORT. (1) By July 1, 2031, and  
26 each July 1st thereafter, a producer responsibility organization must  
27 submit an annual report to the department that contains, at a  
28 minimum, the following information for the previous calendar year:

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

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

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

38 (ii) Information about third-party certifications obtained;

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

3 (i) The total amount of producer fees collected;

4 (ii) A description of infrastructure investments made; and

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

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

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

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

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

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

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

36 (j) A list of producers found to be out of compliance with this  
37 chapter and actions taken by the producer responsibility organization  
38 to return producers to compliance, and notification of any producers  
39 that are no longer participating in the producer responsibility

1 organization or who have been expelled due to their lack of  
2 compliance;

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

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

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

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

27 NEW SECTION. **Sec. 121.** INDEPENDENT REVIEW OF PROGRAM. (1) By  
28 September 1, 2038, the department must contract with an independent  
29 consultant to analyze the impacts of the initial seven years of  
30 program implementation and must submit a report summarizing the  
31 analysis to the appropriate committees of the legislature. The  
32 analysis must include the effects of the program on:

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

34 (b) Recycling rates and composting rates; and

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

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

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

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

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

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

15 NEW SECTION. **Sec. 122.** CONFIDENTIAL INFORMATION SUBMISSION. A  
16 producer responsibility organization, service provider, material  
17 recovery facility, organic material management facility, responsible  
18 market, or other entity that submits information or records to the  
19 department under this chapter may request that the information or  
20 records, including data related to business profits, service rates,  
21 fees, or business expenses or private data on individuals, be made  
22 available only for the confidential use of the department, the  
23 director of the department, the appropriate division of the  
24 department, or the independent consultant carrying out the  
25 independent review of the program in section 121 of this act. The  
26 director of the department must consider the request and if this  
27 action is not detrimental to the public interest and is otherwise in  
28 accordance with the policies and purposes of chapter 43.21A RCW, the  
29 director must grant the request for the information to remain  
30 confidential as authorized in RCW 43.21A.160.

31 NEW SECTION. **Sec. 123.** ENFORCEMENT AUTHORITY. (1) (a) The  
32 department may administratively impose a civil penalty of up to  
33 \$1,000 per violation per day on any producer who violates this  
34 chapter and up to \$10,000 per violation per day for the second and  
35 each subsequent violation.

36 (b) For a producer out of compliance with the requirements of  
37 this chapter, the department shall provide written notification and  
38 offer information. For the purposes of this section, written

1 notification serves as notice of the violation. The department must  
2 issue at least one notice of violation by certified mail prior to  
3 assessing a penalty and the department may only impose a penalty on a  
4 producer that has not met the requirements of this chapter 60 days  
5 following the date the written notification of the violation was  
6 sent.

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

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

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

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

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

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

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

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

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

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

38 (b) The department may assess a penalty on a person that  
39 continues to sell or distribute covered materials of a producer that  
40 is in violation of this chapter 60 days after receipt of the written

1 warning under this subsection. The amount of the penalty that the  
2 department may assess under this subsection is twice the value of the  
3 covered materials sold in violation of this chapter or \$500,  
4 whichever is greater. The department must waive the penalty upon  
5 verification that the person has discontinued distribution or sales  
6 of the covered material within 30 days of the date the penalty is  
7 assessed.

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

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

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

16 NEW SECTION. **Sec. 124.** DEPOSIT RETURN SYSTEM. (1) It is the  
17 intent of the legislature that if a bottle deposit return system is  
18 enacted in the future, it will be harmonized with this chapter in a  
19 manner that ensures that:

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

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

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

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

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

33 NEW SECTION. **Sec. 125.** PETITION FOR THE EXCLUSION OF CERTAIN  
34 PRODUCTS. (1) Except as provided in subsection (4) of this section,  
35 one year prior to the submission of a plan, a producer, group of  
36 producers, or a producer responsibility organization may submit a  
37 petition to the department to request for reasons of public health or  
38 safety the temporary exclusion of packaging used to contain the



1 following categories of products, subcategories of the following  
2 categories of products, or individual products:

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

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

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

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

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

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

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

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

33 NEW SECTION. **Sec. 126.** OTHER. (1) Nothing in this act impacts  
34 an entity's eligibility for any state or local incentive or  
35 assistance program to which they are otherwise eligible. Nothing in  
36 this act limits the authority of private parties or government  
37 entities to enter into contracts.

38 (2) Nothing in this chapter authorizes the department or a  
39 producer responsibility organization to impose any requirement, in

1 direct conflict with a federal law or regulation including, but not  
2 limited to:

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

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

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

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

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

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

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

19 (iv) The federal poultry products inspection act (21 U.S.C. Sec.  
20 451, et seq.);

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

23 (vi) The federal egg products inspection act (21 U.S.C. Sec.  
24 1031, et seq.).

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

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

32 (5) Nothing in this chapter affects the authority or duties of  
33 the department of agriculture related to pest and noxious weed  
34 control and quarantine measures under chapter 17.24 RCW.

35 NEW SECTION. **Sec. 127.** ACCOUNT. The responsible recycling  
36 management account is created in the custody of the state treasurer.  
37 All receipts received by the department under this chapter must be  
38 deposited in the account. Only the director of the department or the  
39 director's designee may authorize expenditures from the account. The

1 account is subject to the allotment procedures under chapter 43.88  
2 RCW, but an appropriation is not required for expenditures.  
3 Expenditures from the account may be used by the department only for  
4 implementing, administering, and enforcing the requirements of this  
5 chapter, and by the department of labor and industries necessary to  
6 cover the cost for the implementation and enforcement of section 304  
7 of this act. It is the intent of the legislature that the portion of  
8 the producer responsibility organization fee received in 2026 for the  
9 costs of the department be transferred to whichever state account was  
10 used to cover the costs of the department prior to the payment of the  
11 producer responsibility organization fee in 2026.

12 **Part Two**

13 **Amendments to Existing Solid Waste Management Laws**

14 **Sec. 201.** RCW 70A.205.045 and 2020 c 20 s 1163 are each amended  
15 to read as follows:

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

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

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

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

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

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

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

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

37 (4) A program for surveillance and control.

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

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

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

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

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

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

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

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

27 (b) Source separation strategies, including:

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

30 (A) Until January 1, 2030, these programs shall include  
31 collection of source separated recyclable materials from single and  
32 multiple-family residences, in urban areas, unless the department  
33 approves an alternative program, according to the criteria in the  
34 planning guidelines. Such criteria shall include: Anticipated  
35 recovery rates and levels of public participation, availability of  
36 environmentally sound disposal capacity, access to markets for  
37 recyclable materials, unreasonable cost impacts on the ratepayer over  
38 the six-year planning period, utilization of environmentally sound  
39 waste reduction and recycling technologies, and other factors as  
40 appropriate. In rural areas, these programs shall include but not be

1 limited to drop-off boxes, buy-back centers, or a combination of  
2 both, at each solid waste transfer, processing, or disposal site, or  
3 at locations convenient to the residents of the county. The drop-off  
4 boxes and buy-back centers may be owned or operated by public,  
5 nonprofit, or private persons;

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

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

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

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

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

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

33 (E) Before January 1, 2030, each comprehensive solid waste  
34 management plan must be amended, revised, or updated by a  
35 jurisdiction consistent with the requirements of this subsection  
36 (7) (b) (i). If a comprehensive solid waste management plan has not  
37 been amended, revised, or updated before January 1, 2030, to be  
38 consistent with the requirements of this subsection (7) (b) (i),  
39 beginning January 1, 2030, the model comprehensive solid waste plan

1 amendment provided by the department under section 106 of this act  
2 applies in the jurisdiction;

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

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

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

13 (c) Recycling strategies for materials not covered under chapter  
14 70A.--- RCW (the new chapter created in section 401 of this act),  
15 including a description of markets for recyclables, a review of waste  
16 generation trends, a description of waste composition, a discussion  
17 and description of existing programs and any additional programs  
18 needed to assist public and private sector recycling, and an  
19 implementation schedule for the designation of specific materials to  
20 be collected for recycling, and for the provision of recycling  
21 collection services;

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

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

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

32 (10) A contamination reduction and outreach plan. The  
33 contamination reduction and outreach plan must address reducing  
34 contamination in recycling. Except for counties with a population of  
35 (~~twenty-five thousand~~) 25,000 or fewer, by July 1, 2021, a  
36 contamination reduction and outreach plan must be included in each  
37 solid waste management plan by a plan amendment or included when  
38 revising or updating a solid waste management plan developed under  
39 this chapter. Jurisdictions may adopt the state's contamination  
40 reduction and outreach plan as developed under RCW 70A.205.070 or

1 participate in a producer responsibility organization's plan under  
2 chapter 70A.--- RCW (the new chapter created in section 401 of this  
3 act) in lieu of creating their own plan. A recycling contamination  
4 reduction and outreach plan must include the following:

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

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

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

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

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

21 **Sec. 202.** RCW 70A.205.500 and 1988 c 175 s 3 are each amended to  
22 read as follows:

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

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

37 **Sec. 203.** RCW 81.77.030 and 2020 c 20 s 1467 are each amended to  
38 read as follows:

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

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

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

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

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

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

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

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

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

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

38       **Sec. 204.** RCW 81.77.160 and 1997 c 434 s 1 are each amended to  
39 read as follows:



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

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

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

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

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

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

26 **Sec. 205.** RCW 81.77.185 and 2010 c 154 s 3 are each amended to  
27 read as follows:

28 (1) The commission shall allow solid waste collection companies  
29 collecting recyclable materials other than covered materials  
30 collected under an approved plan in chapter 70A.--- RCW (the new  
31 chapter created in section 401 of this act) to retain up to ~~((fifty))~~  
32 50 percent of the revenue paid to the companies for the material if  
33 the companies submit a plan to the commission that is certified by  
34 the appropriate local government authority as being consistent with  
35 the local government solid waste plan and that demonstrates how the  
36 revenues will be used to increase recycling. The remaining revenue  
37 shall be passed to residential customers.

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

- 1 (a) The effectiveness of revenue sharing as an incentive to  
2 increase recycling in the state; and  
3 (b) The effect of revenue sharing on costs to customers.

4 **Part Three**  
5 **Other Conforming Amendments and Miscellaneous Provisions**

6 **Sec. 301.** RCW 43.21B.110 and 2024 c 347 s 5, 2024 c 340 s 4, and  
7 2024 c 339 s 16 are each reenacted and amended to read as follows:

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

15 (a) Civil penalties imposed pursuant to chapter 70A.230 RCW and  
16 RCW 18.104.155, 70A.15.3160, 70A.300.090, 70A.20.050, 70A.230.020,  
17 70A.205.280, 70A.355.070, 70A.430.070, 70A.500.260, 70A.505.100,  
18 70A.505.110, 70A.530.040, 70A.350.070, 70A.515.060, 70A.245.040,  
19 70A.245.050, 70A.245.070, 70A.245.080, 70A.245.130, 70A.245.140,  
20 70A.65.200, 70A.455.090, 70A.550.030, 70A.555.110, 70A.560.020,  
21 section 123 of this act, 70A.565.030, 76.09.170, 77.55.440,  
22 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310,  
23 90.56.330, and 90.64.102.

24 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,  
25 18.104.130, 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.15.4530,  
26 70A.15.6010, 70A.205.280, 70A.214.140, 70A.300.120, 70A.350.070,  
27 70A.245.020, 70A.65.200, 70A.505.100, 70A.555.110, 70A.560.020,  
28 section 123 of this act, 70A.565.030, 86.16.020, 88.46.070,  
29 90.03.665, 90.14.130, 90.46.250, 90.48.120, 90.48.240, 90.56.330, and  
30 90.64.040.

31 (c) Except as provided in RCW 90.03.210(2), the issuance,  
32 modification, or termination of any permit, certificate, or license  
33 by the department or any air authority in the exercise of its  
34 jurisdiction, including the issuance or termination of a waste  
35 disposal permit, the denial of an application for a waste disposal  
36 permit, the modification of the conditions or the terms of a waste  
37 disposal permit, a decision to approve or deny a solid waste  
38 management plan under RCW 70A.205.055, approval or denial of an

1 application for a beneficial use determination under RCW 70A.205.260,  
2 an application for a change under RCW 90.03.383, or a permit to  
3 distribute reclaimed water under RCW 90.46.220.

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

7 (e) Decisions of local health departments regarding the issuance  
8 and enforcement of permits to use or dispose of biosolids under RCW  
9 70A.226.090.

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

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

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

22 (i) Decisions of the department of natural resources, the  
23 department of fish and wildlife, and the department that are  
24 reviewable under chapter 76.09 RCW, and the department of natural  
25 resources' appeals of county, city, or town objections under RCW  
26 76.09.050(7).

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

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

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

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

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

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

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

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

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

17 (b) Hearings conducted by the department pursuant to RCW  
18 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,  
19 70A.15.3110, and 90.44.180.

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

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

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

27 **Sec. 302.** RCW 43.21B.300 and 2024 c 347 s 6 and 2024 c 340 s 5  
28 are each reenacted and amended to read as follows:

29 (1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160,  
30 70A.205.280, 70A.230.080, 70A.300.090, 70A.20.050, 70A.245.040,  
31 70A.245.050, 70A.245.070, 70A.245.080, 70A.245.130, 70A.245.140,  
32 70A.65.200, 70A.430.070, 70A.455.090, 70A.500.260, 70A.505.110,  
33 70A.555.110, 70A.560.020, section 123 of this act, 70A.565.030,  
34 86.16.081, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310,  
35 90.56.330, and 90.64.102 and chapter 70A.355 RCW shall be imposed by  
36 a notice in writing, either by certified mail with return receipt  
37 requested or by personal service, to the person incurring the penalty  
38 from the department or the local air authority, describing the  
39 violation with reasonable particularity. For penalties issued by

1 local air authorities, within 30 days after the notice is received,  
2 the person incurring the penalty may apply in writing to the  
3 authority for the remission or mitigation of the penalty. Upon  
4 receipt of the application, the authority may remit or mitigate the  
5 penalty upon whatever terms the authority in its discretion deems  
6 proper. The authority may ascertain the facts regarding all such  
7 applications in such reasonable manner and under such rules as it may  
8 deem proper and shall remit or mitigate the penalty only upon a  
9 demonstration of extraordinary circumstances such as the presence of  
10 information or factors not considered in setting the original  
11 penalty.

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

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

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

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

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

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

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

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

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

5 (c) Penalties imposed pursuant to RCW 70A.230.080, 70A.300.090,  
6 70A.430.070, 70A.555.110, ~~((and))~~ 70A.560.020, and 70A.565.030 must  
7 be credited to the model toxics control operating account created in  
8 RCW 70A.305.180;

9 (d) Penalties imposed pursuant to RCW 70A.245.040 and 70A.245.050  
10 must be credited to the recycling enhancement account created in RCW  
11 70A.245.100;

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

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

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

19 (h) Penalties imposed pursuant to RCW 70A.355.070 must be  
20 credited to the underground storage tank account created in RCW  
21 70A.355.090; and

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

25 NEW SECTION. Sec. 303. LITTER TAX STUDY. (1) In consultation  
26 with producer responsibility organizations registered with the  
27 department of ecology under chapter 70A.--- RCW (the new chapter  
28 created in section 401 of this act), the department of ecology and,  
29 for the purposes of (c) of this subsection, the department of revenue  
30 must study:

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

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

1 and identify strategies for improving prevention and cleanup of  
2 litter and marine debris from covered materials; and

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

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

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

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

22 (3) This section expires July 1, 2030.

23 NEW SECTION. **Sec. 304.** A new section is added to chapter 49.46  
24 RCW to read as follows:

25 (1) Employers associated with a material recovery facility that  
26 annually manages 25,000 tons or more of covered materials under  
27 chapter 70A.--- RCW (the new chapter created in section 401 of this  
28 act) must ensure that workers at the facility receive minimum  
29 industry standard compensation, beginning October 1, 2028.

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

34 (3) (a) If more than one collective bargaining agreement exists  
35 that covers similar or equivalent work in the same county, the higher  
36 rate applies.

37 (b) If no collective bargaining agreement exists that covers  
38 similar or equivalent work in the same county, the rate in the county

1 with a collective bargaining agreement that is closest geographically  
2 applies.

3 (4) The minimum industry standard compensation requirements of  
4 this section constitute a wage payment requirement as defined in RCW  
5 49.48.082. The department of labor and industries may otherwise  
6 enforce this provision as a wage under RCW 49.48.040 through  
7 49.48.080 and the applicable provisions of chapter 49.52 RCW.

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

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

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

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

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



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

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

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

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

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

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

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

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

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

3 (A) Employer payments for the usual benefit are made only in  
4 conformance with all applicable federal and state laws, including the  
5 requirements of the employment retirement income security act of  
6 1974, as amended, and of the internal revenue service; and

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

11 **Sec. 305.** RCW 49.48.082 and 2010 c 42 s 1 are each reenacted and  
12 amended to read as follows:

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

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

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

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

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

23 (5) "Employee" has the meaning provided in: (a) RCW 49.46.010 for  
24 purposes of a wage payment requirement set forth in RCW 49.46.020 or  
25 49.46.130; and (b) RCW 49.12.005 for purposes of a wage payment  
26 requirement set forth in RCW 49.48.010, 49.52.050, or 49.52.060.

27 (6) "Employer" has the meaning provided in RCW 49.46.010 for  
28 purposes of a wage payment requirement set forth in RCW 49.46.020,  
29 49.46.130, 49.48.010, 49.52.050, or 49.52.060.

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

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

38 (9) "Successor" means any person to whom an employer quitting,  
39 selling out, exchanging, or disposing of a business sells or

1 otherwise conveys in bulk and not in the ordinary course of the  
2 employer's business, more than (~~fifty~~) 50 percent of the property,  
3 whether real or personal, tangible or intangible, of the employer's  
4 business.

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

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

9 (12) "Wage payment requirement" means a wage payment requirement  
10 set forth in RCW 49.46.020, 49.46.130, 49.48.010, 49.52.050, (~~or~~)  
11 49.52.060, or section 304 of this act, and any related rules adopted  
12 by the department.

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

17 **Sec. 306.** RCW 70A.245.100 and 2021 c 313 s 13 are each amended  
18 to read as follows:

19 The recycling enhancement account is created in the custody of  
20 the state treasurer. All penalties collected by the department  
21 pursuant to RCW 70A.245.040 (~~and~~), 70A.245.050, and section 123 of  
22 this act must be deposited in the account. Only the director of the  
23 department or the director's designee may authorize expenditures from  
24 the account. The account is subject to the allotment procedures under  
25 chapter 43.88 RCW, but an appropriation is not required for  
26 expenditures. Expenditures from the account may be used by the  
27 department only for providing grants to local governments for the  
28 purpose of supporting local solid waste and financial assistance  
29 programs.

30 NEW SECTION. **Sec. 307.** If any provision of this act or its  
31 application to any person or circumstance is held invalid, the  
32 remainder of the act or the application of the provision to other  
33 persons or circumstances is not affected.

34 NEW SECTION. **Sec. 308.** If specific funding for the purposes of  
35 this act, referencing this act by bill or chapter number, is not  
36 provided by June 30, 2025, in the omnibus appropriations act, this  
37 act is null and void.

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**Part Four**  
**Codification Directives**

3        NEW SECTION.    **Sec. 401.**    Sections 101 through 127 of this act  
4    constitute a new chapter in Title 70A RCW.

--- **END** ---