
SUBSTITUTE SENATE BILL 5284

State of Washington

69th Legislature

2025 Regular Session

By Senate Environment, Energy & Technology (originally sponsored by Senators Lovelett, Shewmake, Nobles, Bateman, Salomon, Saldaña, Stanford, C. Wilson, Frame, Pedersen, Hasegawa, Lias, Orwall, Slatter, and Valdez)

READ FIRST TIME 02/18/25.

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 and
14 RCW 49.48.082.

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

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

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

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

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

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

36 (3) A producer responsibility organization must:

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

38 (ii)(A) Except as provided in (a)(ii)(B) of this subsection, by
39 September 1, 2026, submit a one-time payment to the department, in

1 lieu of the registration fee required in section 103 of this act, in
2 an amount determined by the department, to cover the costs of the
3 department under this chapter from the effective date of this section
4 through June 30, 2027, including the costs determined by the
5 department of labor and industries to implement and enforce section
6 304 of this act and RCW 49.48.082;

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

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

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

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

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

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

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

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

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

37 (i) Provide producers with information regarding state and
38 federal laws that prohibit substances in covered materials or require
39 postconsumer recycled content in covered materials, including
40 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 and
8 RCW 49.48.082, in 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 and RCW 49.48.082. It is the intent of the legislature
8 that the portion of the producer responsibility organization fee
9 received in 2026 for the costs of the department be transferred to
10 whichever state account was used to cover the costs of the department
11 prior to the payment of the producer responsibility organization fee
12 in 2026.

13 **Part Two**

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

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

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

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

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

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

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

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

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

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

38 (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** ---