
SENATE BILL 5284

State of Washington

69th Legislature

2025 Regular Session

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

Read first time 01/15/25. Referred to Committee on Environment, Energy & Technology.

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, and 81.77.185; reenacting and amending RCW 43.21B.110,
4 43.21B.300, and 49.48.082; adding a new section to chapter 49.46 RCW;
5 adding a new chapter to Title 70A RCW; creating new sections;
6 prescribing penalties; and providing an expiration date.

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

8 **Part One**

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

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

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

16 (b) Many residents, particularly those who live in rural areas
17 and in multifamily residences, do not have access to convenient or
18 affordable curbside recycling, and must rely on taking recyclables to
19 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) "Brand" means a name, symbol, word, logo, or mark that
33 identifies an item and attributes the item and its components,
34 including packaging, to the brand owner of the item.

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

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

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

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

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

13 (9) "Contamination" means:

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

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

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

21 (a) A single-family residence;

22 (b) A multifamily residence; and

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

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

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

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

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

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

38 (13)(a) "Covered services" means collecting, transferring,
39 transporting, sorting, processing, recovering, preparing, or

1 otherwise managing for purposes of waste reduction, refill, reuse,
2 recycling, composting, or disposal of contamination or residuals.

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

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

7 (ii) Land disposal.

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

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

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

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

14 (ii) Beginning January 1, 2031, less than \$5,000,000, as adjusted
15 for inflation. The department must use the consumer price index for
16 urban wage earners to calculate the annual rate of inflation
17 adjustment effective January 1st of each year, beginning January 1,
18 2031.

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

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

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

25 (a) Packaging for infant formula, as defined in 21 U.S.C. Sec.
26 321(z);

27 (b) Packaging for medical food, as defined in 21 U.S.C. Sec.
28 360ee(b)(3);

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

35 (d) Packaging for a product regulated as a drug, medical device,
36 or dietary supplement by the United States food and drug
37 administration, including associated components and consumable
38 medical equipment, under the federal food, drug, and cosmetic act (21
39 U.S.C. Sec. 321 et seq.), or a product regulated as a biologic or

1 vaccine by the United States food and drug administration under the
2 public health service act (42 U.S.C. Sec. 201 et seq.);

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

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

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

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

19 (i) Packaging used to contain hazardous or flammable products
20 classified by the 2012 federal occupational safety and health
21 administration hazard communication standard, 29 C.F.R. Sec.
22 1910.1200 (2024), that prevent the packaging from being reduced or
23 made reusable, recyclable, or compostable, as determined by the
24 department;

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

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

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

31 (m) Covered materials that:

32 (i) A producer distributes to another producer;

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

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

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

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

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

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

9 (iv) (A) The producer annually demonstrates to the department that
10 the material has had a state recycling rate of 65 percent for three
11 consecutive years, until December 31, 2029. Beginning January 1,
12 2030, the producer must demonstrate to the department every two years
13 that the material has had a state recycling rate of at least 70
14 percent annually; or

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

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

27 (18) "Government entity" means any:

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

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

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

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

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

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

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

6 (22) "Overburdened communities" means the overburdened
7 communities identified and prioritized by the department under RCW
8 70A.02.050(1)(a).

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

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

14 (24) "Paper product" means paper sold or supplied to a consumer
15 for personal, noncommercial use, including flyers, brochures,
16 booklets, catalogs, magazines, printed paper, and all other paper
17 materials except for: (a) Bound books; (b) conservation-grade and
18 archival-grade paper; (c) newspapers, including supplements or
19 enclosures; (d) magazines that have a circulation of fewer than
20 95,000 and that includes content derived from primary sources related
21 to news and current events; (e) copy paper; (f) paper for use in
22 building construction; and (g) paper that could reasonably be
23 anticipated to become unsafe or unsanitary to handle.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (B) If the producer described in (a)(i) through (v) of this
39 subsection is a business operated wholly or in part as a franchise,

1 the producer is the franchisor, if that franchisor has franchisees
2 that have a commercial presence within the state.

3 (b) "Producer" does not include:

4 (i) Government entities;

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

7 (iii) De minimis producers.

8 (28) "Producer responsibility organization" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (c) If the market operates in the state, manages waste according
18 to the state's solid waste management hierarchy established in RCW
19 70A.205.005; and

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

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

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

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

35 (38) "Reusable" means capable of reuse.

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

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

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

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

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

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

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

19 (42) "Socially vulnerable population" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (3) A producer responsibility organization must:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 (b) Annual reports of all producer responsibility organizations
40 into a single annual report that covers all requirements of this

1 chapter and encompasses all producers when submitted to the
2 department; and

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

7 (5)(a) Each producer responsibility organization must annually
8 fund and implement a reuse financial assistance program to reduce the
9 negative environmental impacts of covered materials through reuse.
10 The reuse financial assistance program must collectively be funded by
11 registered producer responsibility organizations in the amount of
12 \$5,000,000 beginning in 2027 and adjusted annually thereafter for
13 inflation. The department must use the consumer price index for urban
14 wage earners to calculate the annual rate of inflation adjustment
15 effective January 1st of each year.

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

- 18 (i) Government entities;
- 19 (ii) Tribal governments;
- 20 (iii) Nonprofit organizations; and
- 21 (iv) Private organizations.

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

- 26 (i) The environmental benefits of the activity;
- 27 (ii) The human health benefits of the activity;
- 28 (iii) The social and economic benefits of the activity;
- 29 (iv) The cost-effectiveness of the activity; and
- 30 (v) The needs of economically distressed or overburdened
31 communities.

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

37 (6) A producer responsibility organization may not include on its
38 board of directors, or otherwise be governed by, representatives or
39 affiliates of any public or private entities that submit bids to

1 perform work for the producer responsibility organization or that
2 contract with the producer responsibility organization.

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

18 NEW SECTION. **Sec. 105.** ADVISORY COUNCIL. (1) The advisory
19 council is established to review all activities conducted by producer
20 responsibility organizations under this chapter and to advise the
21 department and producer responsibility organizations regarding the
22 implementation of this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (n) One member representing the department.

19 (3) In appointing members, the department:

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

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

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

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

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

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

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

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

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

17 (b) Meetings of the advisory council must comply with chapter
18 42.30 RCW, the open public meetings act.

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

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

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

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

4 (2) The department must:

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

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

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

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

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

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

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

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

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

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

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

33 (l) By January 31, 2029, create a model comprehensive solid waste
34 plan amendment for use by cities and counties in lieu of updating,
35 amending, or revising a plan consistent with RCW
36 70A.205.045(7)(b)(i);

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

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

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

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

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

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

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

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

18 (u) Review petitions to exempt materials, as required by section
19 125 of this act; and

20 (v) Establish a public website that includes:

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

23 (ii) A list of registered service providers;

24 (iii) The most recent needs assessment;

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

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

28 (vi) The list of exempt materials;

29 (vii) Links to producer responsibility organization websites;

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

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

35 (3) By March 1, 2026, if registrations for more than one producer
36 responsibility organization, other than producers registering as
37 producer responsibility organizations, are submitted to the
38 department, the department must determine which proposed producer
39 responsibility organization can most effectively implement this
40 chapter until the first approved plan period ends. Until the

1 conclusion of the initial plan implementation period, producers of
2 covered materials that do not register as producer responsibility
3 organizations must join the producer responsibility organization
4 whose registration is approved by the department. This limitation
5 only applies for the purposes of program development and the initial
6 plan implementation period. After the first plan approved by the
7 department expires, the department may allow registration of more
8 than one producer responsibility organization.

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

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

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

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

21 (b) The department must:

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

25 (ii) Apply any remaining annual fee payment funds from the
26 current year to the annual fee for the coming fiscal year, if the
27 collected annual fee exceeds the costs identified under (a)(ii) of
28 this subsection for a given year; 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 (5) The department must review and approve, deny, or request
34 additional information for a draft plan or draft amendment, including
35 a contingency plan as required in section 114 of this act, submitted
36 by a producer responsibility organization or coordinating body,
37 within 120 days of receipt.

38 (a) The department must post the draft plan or plan amendment
39 update on the department's website and allow public comment for no

1 less than 45 days before approving, denying, or requesting additional
2 information on the draft plan or amendment.

3 (b) If the department denies or requests additional information
4 for a draft plan or amendment, the department must provide the
5 producer responsibility organization with the reasons, in writing,
6 that the plan or amendment does not meet the plan requirements of
7 section 113 of this act. The producer responsibility organization has
8 60 days from the date that the rejection or request for additional
9 information is received to submit to the department any additional
10 information necessary for the department's approval. The department
11 must review and approve or disapprove the revised draft plan or
12 amendment no later than 60 days after the department receives it.

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

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

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

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

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

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

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

36 NEW SECTION. **Sec. 107.** SERVICE PROVIDER REGISTRATION. (1) By
37 January 31, 2026, and annually thereafter, each service provider
38 seeking reimbursement for services provided under an approved plan

1 must register with the department by submitting the following
2 information:

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

5 (b) The address of the service provider;

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

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

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

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

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

26 (ii) Inbound material quality and contamination;

27 (iii) Outbound material quality and contamination;

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

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

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

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

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

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

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

12 NEW SECTION. **Sec. 108.** SERVICE PROVIDER RESPONSIBILITIES. A
13 service provider receiving reimbursement or funding under an approved
14 plan must:

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

19 (2) Register annually with the department;

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

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

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

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

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

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

33 NEW SECTION. **Sec. 109.** STATEWIDE COLLECTION LISTS. (1)(a) The
34 department must develop a list of covered materials determined to be
35 recyclable or compostable statewide. By October 1, 2026, the
36 department must develop an initial list for use and evaluation in the
37 needs assessment described in section 111 of this act. The department
38 must also publish lists no later than 30 days after approving a plan,

1 taking into account proposed changes in the plan. In the development
2 of the lists, the department must distinguish between:

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

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

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

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

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

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

15 (ii) Environmental health and safety considerations;

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

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

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

22 (vi) The amount of the material available;

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

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

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

27 (x) Economic factors;

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

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

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

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

37 (3) In developing lists under this section, the department must
38 consult with the advisory council, producer responsibility
39 organizations, service providers, government entities, and other
40 interested parties. The department must consider any requests

1 received for the inclusion or removal of a covered material or
2 covered material type on a list under this section. The department
3 may select a third-party consultant to assist with the development of
4 the lists.

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

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

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

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

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

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

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

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

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

32 (i) County population size;

33 (ii) County population density; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (c) Prior to finalizing the needs assessment, make the draft
39 needs assessment available for comment by the advisory council,

1 producer responsibility organizations, the utilities and
2 transportation commission, and the public. The department must
3 respond in writing to the comments and recommendations of the
4 advisory council and producer responsibility organizations; and

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

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

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

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

14 (b) Tons of collected covered materials;

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

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

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

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

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

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

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

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

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

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

7 (a) An evaluation of:

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

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

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

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

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

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

29 (ii) Reuse rates and return rates;

30 (iii) Recycling rates;

31 (iv) Composting rates; and

32 (v) Postconsumer recycled content, if applicable;

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

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

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

38 (iii) The statewide greenhouse gas emissions limits of chapter
39 70A.45 RCW;

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

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

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

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

16 (f) Recommended collection methods by covered materials type to
17 maximize collection efficiency, maximize feedstock quality, and
18 optimize service and convenience for collection of covered materials
19 to be considered or that are included on lists established in section
20 109 of this act;

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

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

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

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

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

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

38 (j) An evaluation of investments needed to increase waste
39 reduction, refill, reuse, recycling, and composting rates of covered
40 materials according to the range of proposed performance targets and

1 statewide requirements, including investments in existing and new
2 infrastructure that would also:

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

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

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

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

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

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

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

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

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

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

39 (iii) Increasing public awareness of how to use and manage
40 covered materials in an environmentally sound manner and how to

1 access waste reduction, refill, reuse, recycling, and composting
2 services; and

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

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

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

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

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

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

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

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

31 NEW SECTION. **Sec. 112.** EQUITY STUDY. (1) By January 31, 2032,
32 the department must complete a study, conducted by a contracted third
33 party that is not a producer or producer responsibility organization,
34 of facilities operating in the state that manage covered materials.
35 The study must analyze, at a minimum, information about:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (iii) Provide funding to expand and increase the convenience of
9 waste reduction, refill, reuse, collection, recycling, and composting
10 services to covered entities, at a minimum, according to the order of
11 the state's solid waste management hierarchy established in RCW
12 70A.205.005;

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

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

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

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

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

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

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

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

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

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

1 (ii) Requirements that service providers must offer residential
2 recycling collection for materials on the applicable list established
3 by the department under section 109(1)(a) of this act to covered
4 entities wherever they offer residential garbage collection services,
5 except in areas subject to a county ordinance as specified in RCW
6 70A.205.045(7)(b)(i)(C);

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

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

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

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

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

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

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

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

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

38 (p) A description of how the producer responsibility organization
39 will increase public awareness, educate, and complete outreach

1 activities that meet the requirements of section 119 of this act and
2 will evaluate the efficacy of these efforts;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 NEW SECTION. **Sec. 115.** PERFORMANCE TARGETS. (1) The producer
5 responsibility organization must propose performance targets based on
6 the needs assessment that meet the statewide requirements in
7 subsection (10) of this section that must be included in an approved
8 plan. Performance targets must include reuse rates, return rates,
9 recycling rates for materials delivered to responsible markets,
10 composting rates, and targets for plastic source reduction and
11 postconsumer recycled content by covered materials type, as
12 applicable. For products for which postconsumer recycled content
13 rates are established in RCW 70A.245.010 through 70A.245.050 and
14 70A.245.090 (1), (2), and (4), those rates must be included in an
15 approved plan. The producer responsibility organization must propose
16 the unit or units that are most appropriate to measure each
17 performance target as informed by the needs assessment.

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

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

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

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

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

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

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

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

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

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

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

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

26 (B) Generation of hazardous waste;

27 (C) Energy use and generation of greenhouse gases;

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

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

32 (F) Public health impacts; and

33 (G) Capture and recycling rates;

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

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

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

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

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

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

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

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

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

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

39 (7) For purposes of determining whether reuse performance targets
40 are being met, a plan must provide a methodology for measuring the

1 amount of reusable covered materials at the point at which reusable
2 covered materials meet the following criteria as demonstrated by the
3 producer and approved by the department whether the:

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

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

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

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

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

24 (i) Recycling rate;

25 (ii) Composting rate;

26 (iii) Reuse rate;

27 (iv) Return rate;

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

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

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

39 (i) The needs assessment;

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

1 (iii) The greenhouse gas emissions limits of chapter 70A.45 RCW;
2 (iv) The need for continuous progress towards overall reduction
3 in the generation of covered materials waste, the reuse, recycling,
4 or composting of covered materials to reduce environmental impacts
5 and human health impacts, and progress to incorporate postconsumer
6 recycled content to replace virgin materials and support more
7 regional markets;
8 (v) A preference for statewide requirements that accomplish and
9 further the goals and requirements in (b)(ii) through (iv) of this
10 subsection as soon as practicable and to the maximum extent
11 achievable; and
12 (vi) Information from packaging and paper product producer
13 responsibility programs operating in other jurisdictions.
14 (c) The department must consult with producer responsibility
15 organizations on establishing statewide requirements, submit proposed
16 statewide requirements for review by the advisory council, and
17 consider the advisory council's recommendations before finalizing the
18 statewide requirements.
19 (d) Every five years, the department must review the statewide
20 requirements established under this subsection. If the department
21 decides an update is not warranted at that time, the department must
22 submit the reasoning to the advisory council and consider the
23 advisory council's recommendations before making a final decision. If
24 the department decides an update is warranted, the department must
25 follow the process specified in (b) and (c) of this subsection.
26 (e) Producer responsibility organizations must ensure the
27 statewide requirements are met.

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

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

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

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

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

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

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

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

20 (ii) Reducing the amount of:

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

24 (B) Paper used to manufacture individual paper products;

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

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

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

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

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

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

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

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

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

3 (ii) The financial obligations to complete activities described
4 in an approved plan and to reimburse service providers under section
5 117 of this act;

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

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

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

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

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

20 NEW SECTION. **Sec. 117.** SERVICE PROVIDER REIMBURSEMENT. (1) The
21 reimbursements provided for covered services to covered entities
22 under an approved plan must only be provided to service providers
23 that, at a minimum, meet the performance standards established under
24 an approved plan.

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

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

37 (i) The cost to collect covered material for recycling, a
38 proportional share of composting, or reuse adjusted to reflect
39 conditions that affect those costs, varied by region or jurisdiction

1 in which the covered services are provided including, but not limited
2 to:

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

4 (B) Population density;

5 (C) Collection methods employed;

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

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

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

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

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

19 (iii) The cost to:

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

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

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

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

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

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

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

8 (b) Nothing in this chapter restricts the authority of a
9 political subdivision of the state to provide waste management
10 services to residents, to contract with any entity to provide waste
11 management services, or to exercise its authority granted under RCW
12 35.21.120, 35.21.130, 35.21.152, or 36.58.040. A producer
13 responsibility organization may not restrict or otherwise interfere
14 with a government entity exercising its authority under RCW
15 35.21.120, 35.21.130, 35.21.152, or 36.58.040 to organize collection
16 of solid waste, including materials collected for recycling or
17 composting, or to extend, renew, or otherwise manage any contracts
18 entered into as a result of exercising such authority or otherwise
19 resulting from a competitive procurement process.

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

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

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

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

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

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

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

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

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

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

23 (c) Registration materials submitted to the department;

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

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

27 (f) Current and all past needs assessments;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (i) The amount of covered materials successfully source reduced,
2 reused, recycled, and composted by covered materials type and the
3 strategies or collection methods used; and
4 (ii) Information about third-party certifications obtained;
5 (c) The total cost to implement the program and a detailed
6 description of program expenditures by category, including:
7 (i) The total amount of producer fees collected;
8 (ii) A description of infrastructure investments made; and
9 (iii) A breakdown of reimbursements by covered services, entities
10 receiving covered services, and regions of the state;
11 (d) A copy of a financial audit of program operations conducted
12 by an independent auditor approved by the department that meets the
13 requirements of the *Financial Accounting Standards Board's Accounting*
14 *Standards* update 2016-14, not-for-profit entities (Topic 958), as it
15 existed as of January 1, 2025;
16 (e) A description of the program performance problems that
17 emerged in specific locations and efforts taken or proposed by the
18 producer responsibility organization to address them;
19 (f) A discussion of technical assistance provided to producers
20 regarding toxic substances in covered materials and actions taken by
21 producers to reduce intentionally added toxic substances and residual
22 toxic substances from manufacturing in covered materials beyond
23 compliance with prohibitions already established in law;
24 (g) A description of public awareness, education, and outreach
25 activities undertaken, including any evaluations conducted of their
26 efficacy, plans for next calendar year's activities, and an
27 evaluation of the process established by the producer responsibility
28 organization to answer questions from consumers regarding collection,
29 recycling, composting, waste reduction, and reuse activities;
30 (h) A description, which includes quantitative measurements, of
31 changes in levels of access to covered services for covered materials
32 by socially vulnerable populations relative to levels of access to
33 and participation in covered services for covered materials by
34 socially vulnerable populations prior to the implementation of the
35 first plan under this chapter;
36 (i) A summary of consultations held with the advisory council and
37 how any feedback was incorporated into the report as a result,
38 together with a list of rejected recommendations and the reasons for
39 rejection;

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

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

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

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

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

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

- 37 (a) Solid waste, composting, or recycling costs;
38 (b) Recycling rates and composting rates; and

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

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

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

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

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

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

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

35 NEW SECTION. **Sec. 123.** ENFORCEMENT AUTHORITY. (1) (a) The
36 department may administratively impose a civil penalty of up to
37 \$1,000 per violation per day on any producer who violates this

1 chapter and up to \$10,000 per violation per day for the second and
2 each subsequent violation.

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

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

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

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

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

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

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

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

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

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

39 (a) The department shall serve, or send with delivery
40 confirmation, a written warning explaining the violation to a person

1 distributing or selling covered materials of a producer that is not
2 in compliance with this chapter.

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

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

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

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

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

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

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

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

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

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

1 NEW SECTION. **Sec. 125.** PETITION FOR THE EXCLUSION OF CERTAIN

2 PRODUCTS. (1) Except as provided in subsection (4) of this section,
3 one year prior to the submission of a plan, a producer, group of
4 producers, or a producer responsibility organization may submit a
5 petition to the department to request for reasons of public health or
6 safety the temporary exclusion of packaging used to contain the
7 following categories of products, subcategories of the following
8 categories of products, or individual products:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (iv) The federal poultry products inspection act (21 U.S.C. Sec.
27 451, et seq.);

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

30 (vi) The federal egg products inspection act (21 U.S.C. Sec.
31 1031, et seq.).

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

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

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

4 (4) A program for surveillance and control.

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

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

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

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

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

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

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

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

31 (b) Source separation strategies, including:

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

34 (A) Until January 1, 2030, these programs shall include
35 collection of source separated recyclable materials from single and
36 multiple-family residences, in urban areas, unless the department
37 approves an alternative program, according to the criteria in the
38 planning guidelines. Such criteria shall include: Anticipated
39 recovery rates and levels of public participation, availability of
40 environmentally sound disposal capacity, access to markets for

1 recyclable materials, unreasonable cost impacts on the ratepayer over
2 the six-year planning period, utilization of environmentally sound
3 waste reduction and recycling technologies, and other factors as
4 appropriate. In rural areas, these programs shall include but not be
5 limited to drop-off boxes, buy-back centers, or a combination of
6 both, at each solid waste transfer, processing, or disposal site, or
7 at locations convenient to the residents of the county. The drop-off
8 boxes and buy-back centers may be owned or operated by public,
9 nonprofit, or private persons;

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

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

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

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

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

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

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

1 been amended, revised, or updated before January 1, 2030, to be
2 consistent with the requirements of this subsection (7)(b)(i),
3 beginning January 1, 2030, the model comprehensive solid waste plan
4 amendment provided by the department under section 106 of this act
5 applies in the jurisdiction;

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

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

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

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

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

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

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

35 (10) A contamination reduction and outreach plan. The
36 contamination reduction and outreach plan must address reducing
37 contamination in recycling. Except for counties with a population of
38 (~~twenty-five thousand~~) 25,000 or fewer, by July 1, 2021, a
39 contamination reduction and outreach plan must be included in each
40 solid waste management plan by a plan amendment or included when

1 revising or updating a solid waste management plan developed under
2 this chapter. Jurisdictions may adopt the state's contamination
3 reduction and outreach plan as developed under RCW 70A.205.070 or
4 participate in a producer responsibility organization's plan under
5 chapter 70A.--- RCW (the new chapter created in section 401 of this
6 act) in lieu of creating their own plan. A recycling contamination
7 reduction and outreach plan must include the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 **Part Three**

7 **Other Conforming Amendments and Miscellaneous Provisions**

8 **Sec. 301.** RCW 43.21B.110 and 2024 c 347 s 5, 2024 c 340 s 4, and
9 2024 c 339 s 16 are each reenacted and amended to read as follows:

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

17 (a) Civil penalties imposed pursuant to chapter 70A.230 RCW and
18 RCW 18.104.155, 70A.15.3160, 70A.300.090, 70A.20.050, 70A.230.020,
19 70A.205.280, 70A.355.070, 70A.430.070, 70A.500.260, 70A.505.100,
20 70A.505.110, 70A.530.040, 70A.350.070, 70A.515.060, 70A.245.040,
21 70A.245.050, 70A.245.070, 70A.245.080, 70A.245.130, 70A.245.140,
22 70A.65.200, 70A.455.090, 70A.550.030, 70A.555.110, 70A.560.020,
23 section 123 of this act, 70A.565.030, 76.09.170, 77.55.440,
24 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310,
25 90.56.330, and 90.64.102.

26 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
27 18.104.130, 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.15.4530,
28 70A.15.6010, 70A.205.280, 70A.214.140, 70A.300.120, 70A.350.070,
29 70A.245.020, 70A.65.200, 70A.505.100, 70A.555.110, 70A.560.020,
30 section 123 of this act, 70A.565.030, 86.16.020, 88.46.070,
31 90.03.665, 90.14.130, 90.46.250, 90.48.120, 90.48.240, 90.56.330, and
32 90.64.040.

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

1 disposal permit, a decision to approve or deny a solid waste
2 management plan under RCW 70A.205.055, approval or denial of an
3 application for a beneficial use determination under RCW 70A.205.260,
4 an application for a change under RCW 90.03.383, or a permit to
5 distribute reclaimed water under RCW 90.46.220.

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

9 (e) Decisions of local health departments regarding the issuance
10 and enforcement of permits to use or dispose of biosolids under RCW
11 70A.226.090.

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

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

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

24 (i) Decisions of the department of natural resources, the
25 department of fish and wildlife, and the department that are
26 reviewable under chapter 76.09 RCW, and the department of natural
27 resources' appeals of county, city, or town objections under RCW
28 76.09.050(7).

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

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

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

38 (m) Decisions of an authorized public entity under RCW 79.100.010
39 to take temporary possession or custody of a vessel or to contest the

1 amount of reimbursement owed that are reviewable by the hearings
2 board under RCW 79.100.120.

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

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

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

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

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

19 (b) Hearings conducted by the department pursuant to RCW
20 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,
21 70A.15.3110, and 90.44.180.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (d) Penalties imposed pursuant to RCW 70A.245.040 and 70A.245.050
12 must be credited to the recycling enhancement account created in RCW
13 70A.245.100;

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

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

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

21 (h) Penalties imposed pursuant to RCW 70A.355.070 must be
22 credited to the underground storage tank account created in RCW
23 70A.355.090; and

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

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

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

36 (b) The extent to which covered materials contribute to litter
37 and marine debris for the purpose of informing how a producer
38 responsibility organization implementing a plan can support litter
39 and marine debris prevention as it relates to activities required

1 under chapter 70A.--- RCW (the new chapter created in section 401 of
2 this act). The assessment should draw on available data, assess gaps,
3 and identify strategies for improving prevention and cleanup of
4 litter and marine debris from covered materials; and

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

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

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

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

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

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

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

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

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

38 (4) The minimum industry standard compensation requirements of
39 this section constitute a wage payment requirement as defined in RCW

1 49.48.082. The department of labor and industries may otherwise
2 enforce this provision as a wage under RCW 49.48.040 through
3 49.48.080 and the applicable provisions of chapter 49.52 RCW.

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

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

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

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

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

36 (f) In addition to any enforcement authority provided in this
37 section or applicable rules, the department of labor and industries
38 may enforce any violation under this section or applicable rules by
39 filing an action in the superior court for the county in which the
40 violation is alleged to have occurred. If the department of labor and

1 industries prevails, the department is entitled to reasonable
2 attorneys' fees and costs, in the amount to be determined by the
3 court.

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

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

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

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

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

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

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

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

38 (A) Employer payments for the usual benefit are made only in
39 conformance with all applicable federal and state laws, including the

1 requirements of the employment retirement income security act of
2 1974, as amended, and of the internal revenue service; and

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

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

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

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

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

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

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

19 (5) "Employee" has the meaning provided in: (a) RCW 49.46.010 for
20 purposes of a wage payment requirement set forth in RCW 49.46.020 or
21 49.46.130; and (b) RCW 49.12.005 for purposes of a wage payment
22 requirement set forth in RCW 49.48.010, 49.52.050, or 49.52.060.

23 (6) "Employer" has the meaning provided in RCW 49.46.010 for
24 purposes of a wage payment requirement set forth in RCW 49.46.020,
25 49.46.130, 49.48.010, 49.52.050, or 49.52.060.

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

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

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

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

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

5 (12) "Wage payment requirement" means a wage payment requirement
6 set forth in RCW 49.46.020, 49.46.130, 49.48.010, 49.52.050, (~~or~~)
7 49.52.060, or section 304 of this act, and any related rules adopted
8 by the department.

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

13 NEW SECTION. **Sec. 306.** If any provision of this act or its
14 application to any person or circumstance is held invalid, the
15 remainder of the act or the application of the provision to other
16 persons or circumstances is not affected.

17 NEW SECTION. **Sec. 307.** If specific funding for the purposes of
18 this act, referencing this act by bill or chapter number, is not
19 provided by June 30, 2025, in the omnibus appropriations act, this
20 act is null and void.

21 **Part Four**
22 **Codification Directives**

23 NEW SECTION. **Sec. 401.** Sections 101 through 127 of this act
24 constitute a new chapter in Title 70A RCW.

--- END ---