

Chapter 70A.455 RCW
PLASTIC PRODUCT DEGRADABILITY

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RCW 70A.455.010 Findings—Intent. (1) The legislature finds and declares that it is the public policy of the state that:

(a) Environmental marketing claims for plastic products, whether implicit or implied, should adhere to uniform and recognized standards for "compostability" and "biodegradability," since misleading, confusing, and deceptive labeling can negatively impact local composting programs and compost processors. Plastic products marketed as being "compostable" should be readily and easily identifiable as meeting these standards;

(b) Legitimate and responsible packaging and plastic product manufacturers are already properly labeling their compostable products, but many manufacturers are not. Not all compost facilities and their associated processing technologies accept or are required to accept compostable packaging as feedstocks. However, implementing a standardized system and test methods may create the ability for them to take these products in the future.

(2) Therefore, it is the intent of the legislature to authorize the department of ecology, cities, and counties to pursue false or misleading environmental claims and "greenwashing" for plastic products claiming to be "compostable" or "biodegradable" when in fact they are not. [2022 c 180 s 801; 2019 c 265 s 1. Formerly RCW 70.360.010.]

Findings—Intent—Scope of authority of chapter 180, Laws of 2022—2022 c 180: See notes following RCW 70A.205.007.

RCW 70A.455.020 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "ASTM" means the American society for testing and materials.

(2) "Biodegradable mulch film" means film plastic used as a technical tool in commercial farming applications that biodegrades in soil after being used, and:

(a) The film product fulfills plant growth and regulated metals requirements of ASTM D6400; and

(b) (i) Meets the requirements of Vincotte's "OK Biodegradable Soil" certification scheme, as that certification existed as of January 1, 2019;

(ii) At ambient temperatures and in soil, shows at least 90 percent biodegradation absolute or relative to microcrystalline cellulose in less than two years' time, tested according to ISO 17556 or ASTM 5988 standard test methods, as those test methods existed as of January 1, 2019; or

(iii) Meets the requirements of EN 17033 "plastics-biodegradable mulch films for use in agriculture and horticulture" as it existed on January 1, 2019.

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

(4) "Federal trade commission guides" means the United States federal trade commission's guides for the use of environmental marketing claims (Part 260, commencing at section 260.1), compostability claims, including section 260.8, and degradation claims (subchapter B of chapter I of Title 16 of the Code of Federal Regulations), as those guides existed as of January 1, 2019.

(5) "Film product" means a bag, sack, wrap, or other sheet film product.

(6) "Food service product" has the same meaning as defined in RCW 70A.245.010.

(7) "Person" means individual, firm, association, copartnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever.

(8) "Plastic food packaging and food service products" means food packaging and food service products that is composed of:

(a) Plastic; or

(b) Fiber or paper with a plastic coating, window, component, or additive.

(9) "Plastic product" means a product made of plastic, whether alone or in combination with another material including, but not limited to, paperboard. A plastic product includes, but is not limited to, any of the following:

(a) A product or part of a product that is used, bought, or leased for use by a person for any purpose;

(b) A package or a packaging component including, but not limited to, packaging peanuts;

(c) A film product; or

(d) Plastic food packaging and food service products.

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

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

(b) If the product is manufactured by a person other than the brand owner, the producer is the person that is the licensee of a brand or trademark under which a product is used in a commercial enterprise, sold, offered for sale, or distributed in or into this state, whether or not the trademark is registered in this state, unless the manufacturer or brand owner of the product has agreed to accept responsibility under this chapter; or

(c) If there is no person described in (a) and (b) of this subsection over whom the state can constitutionally exercise

jurisdiction, the producer is the person who imports or distributes the product in or into the state.

(11) "Standard specification" means either:

(a) ASTM D6400 - standard specification labeling of plastics designed to be aerobically composted in municipal or industrial facilities, as it existed as of January 1, 2019; or

(b) ASTM D6868 - standard specification for labeling of end items that incorporate plastics and polymers as coatings or additives with paper and other substrates designed to be aerobically composted in municipal or industrial facilities, as it existed as of January 1, 2019.

(12) "Utensil" means a product designed to be used by a consumer to facilitate the consumption of food or beverages, including knives, forks, spoons, cocktail picks, chopsticks, splash sticks, and stirrers. [2022 c 180 s 802; 2019 c 265 s 2. Formerly RCW 70.360.020.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Findings—Intent—Scope of authority of chapter 180, Laws of 2022—2022 c 180: See notes following RCW 70A.205.007.

RCW 70A.455.030 Use of terms on label. (1) Except as provided in this chapter, no producer may sell, offer for sale, or distribute for use in this state a plastic product that is labeled with the term "biodegradable," "degradable," "decomposable," "oxo-degradable," or any similar form of those terms, or in any way imply that the plastic product will break down, fragment, biodegrade, or decompose in a landfill or other environment.

(2) This section does not apply to biodegradable mulch film that meets the required testing and has the appropriate third-party certifications. [2022 c 180 s 811; 2019 c 265 s 3. Formerly RCW 70.360.030.]

Findings—Intent—Scope of authority of chapter 180, Laws of 2022—2022 c 180: See notes following RCW 70A.205.007.

RCW 70A.455.040 Requirements for a product labeled "compostable." (1) A product labeled as "compostable" that is sold, offered for sale, or distributed for use in Washington by a producer must meet at least one of the following equivalent standard specifications:

(a) ASTM standard specification D6400;

(b) ASTM standard specification D6868;

(c) ASTM standard specification D8410;

(d) ISO standard specification 17088;

(e) EN standard specification 13432;

(f) A standard specification that is substantially similar to those provided in (a) through (e) of this subsection, as determined by the department; or

(g) Be comprised only of wood, which includes renewable wood, or a fiber-based substrate that contains:

(i) Greater than 98 percent fiber by dry weight; and

(ii) No plastic, plastic polymer or wax additives, or plastic or wax coatings.

(2) A product described in subsection (1)(a) through (f) of this section must:

(a) Meet labeling requirements established under the United States federal trade commission's guides; and

(b) Feature labeling that:

(i) Meets industry standards for being distinguishable upon quick inspection in both public sorting areas and in processing facilities;

(ii) Uses a logo indicating the product has been certified by a recognized third-party independent verification body as meeting the applicable standard specification;

(iii) Displays the word "compostable," where possible, indicating the product has been tested by a recognized third-party independent body and meets the applicable standard specification; and

(iv) Uses green, beige, or brown labeling, color striping, or other green, beige, or brown symbols, colors, tinting, marks, or design patterns that help differentiate compostable items from noncompostable items. [2024 c 341 s 501; 2022 c 180 s 803; 2019 c 265 s 4. Formerly RCW 70.360.040.]

Findings—Intent—2024 c 341: See note following RCW 70A.207.040.

Findings—Intent—Scope of authority of chapter 180, Laws of 2022—2022 c 180: See notes following RCW 70A.205.007.

RCW 70A.455.050 Film bags—Identification. (1) A producer of a film bag that meets ASTM standard specification D6400 and is distributed or sold by retailers must ensure that the film bag is readily and easily identifiable from other film bags in a manner that is consistent with the federal trade commission guides.

(2) For purposes of this section, "readily and easily identifiable" products must meet the following requirements:

(a) Be labeled with a certification logo indicating the bag meets the ASTM D6400 standard specification if the bag has been certified as meeting that standard by a recognized third-party independent verification body;

(b) Be labeled in accordance with one of the following:

(i) The bag is tinted or made of a uniform color of green, beige, or brown and labeled with the word "compostable" on one side of the bag and the label must be at least one inch in height; or

(ii) Be labeled with the word "compostable" on both sides of the bag and the label must be one of the following:

(A) Green, beige, or brown color lettering at least one inch in height; or

(B) Within a contrasting green, beige, or brown color band of at least one inch in height on both sides of the bag with color contrasting lettering of at least one-half inch in height; and

(c) Meet industry standards for being distinguishable upon quick inspection in both public sorting areas and in processing facilities.

(3) If a bag is smaller than 14 inches by 14 inches, the lettering and stripe required under subsection (2)(b)(ii) of this section must be in proportion to the size of the bag.

(4) A film bag that meets ASTM standard specification D6400 that is sold or distributed in this state may not display a chasing arrow resin identification code or recycling type of symbol in any form.

(5) A producer is required to comply with this section only to the extent that the labeling requirements do not conflict with the federal trade commission guides. [2022 c 180 s 804; 2019 c 265 s 5. Formerly RCW 70.360.050.]

Findings—Intent—Scope of authority of chapter 180, Laws of 2022
—2022 c 180: See notes following RCW 70A.205.007.

RCW 70A.455.060 Plastic food service products/film products—
Identification. (1) (a) A producer of plastic food service products or film products that meet ASTM standard specification D6400 or ASTM standard specification D6868 must ensure that the items are readily and easily identifiable from other plastic food service products or plastic film products in a manner that is consistent with the federal trade commission guides.

(b) Film bags are exempt from the requirements of this section, and are instead subject to the requirements of RCW 70A.455.050.

(2) For the purposes of this section, "readily and easily identifiable" products must:

(a) Be labeled with a logo indicating the product has been certified by a recognized third-party independent verification body as meeting the ASTM standard specification;

(b) Be labeled with the word "compostable," where possible, indicating the food packaging or film product has been tested by a recognized third-party independent body and meets the ASTM standard specification;

(c) Meet industry standards for being distinguishable upon quick inspection in both public sorting areas and in processing facilities;

(d) If the product is a plastic food service product or food contact film product, be at least partially colored or partially tinted green, beige, or brown, or have a green, beige, or brown stripe or band at least .25 inches wide; and

(e) If the product is a nonfood contact film product, be at least partially colored or partially tinted green or have a green stripe or band at least .25 inches wide and display the word "compostable."

(3) It is encouraged that each product described in subsection (1) of this section display labeling language via printing, embossing, or compostable adhesive stickers using, when possible, either the colors green, beige, or brown that contrast with background product color for easy identification.

(4) Graphic elements are encouraged to increase legibility of the word "compostable" and overall product distinction that may include text boxes, stripes, bands, or a green, beige, or brown tint of the product.

(5) A producer is required to comply with this section only to the extent that the labeling requirements do not conflict with the federal trade commission guides. [2022 c 180 s 805; 2020 c 20 s 1446; 2019 c 265 s 6. Formerly RCW 70.360.060.]

Findings—Intent—Scope of authority of chapter 180, Laws of 2022
—2022 c 180: See notes following RCW 70A.205.007.

Effective date—2020 c 20 ss 1446-1450: "Sections 1446 through 1450 of this act take effect July 1, 2020." [2020 c 20 s 104.]

RCW 70A.455.070 Producers of plastic film bags or food service products—Prohibited, discouraged, and encouraged acts. (1) A producer of plastic film bags sold, offered for sale, or distributed for use in Washington that does not meet the applicable ASTM standard specifications provided in RCW 70A.455.050 is:

(a) Prohibited from using tinting, color schemes, labeling, or terms that are required of products that meet the applicable ASTM standard specifications under RCW 70A.455.050;

(b) Discouraged from using labeling, images, and terms that may reasonably be anticipated to confuse consumers into believing that noncompostable products are compostable; and

(c) Encouraged to use labeling, images, and terms to help consumers identify noncompostable bags as either: (i) Suitable for recycling; or (ii) necessary to dispose as waste.

(2) A producer of food service products, or plastic film products other than plastic film bags subject to subsection (1) of this section, sold, offered for sale, or distributed for use in Washington that does not meet the applicable ASTM standard specifications provided in RCW 70A.455.060 is:

(a) Prohibited from using labeling, or terms that are required of products that meet the applicable ASTM standard specifications under RCW 70A.455.060;

(b) Discouraged from using labeling, images, and terms that may reasonably be anticipated to confuse consumers into believing that noncompostable products are compostable; and

(c) Encouraged to use tinting, coloration, labeling, images, and terms to help consumers identify film products and food service packaging as either: (i) Suitable for recycling; or (ii) necessary to dispose as waste.

(3) For the purposes of this section only:

(a) "Tinting" means the addition of color to a film, usually by means of dye or stain, that filters light and makes the film appear a certain color; and

(b) (i) The prohibition in subsection (1)(a) of this section on "color schemes" on plastic film bags does not preclude the use of:

(A) Green, brown, or beige stripes that are smaller than .25 inch wide and used as visual aids; and

(B) Green, brown, or beige lettering or logos that are used solely for brand identity purposes.

(ii) The prohibition in subsection (1)(a) of this section on color schemes on plastic film bags does prohibit the use of botanical motifs, such as leaves or vines that are colored green, brown, or beige, or any combination of these colors or shapes. [2024 c 341 s 502; 2022 c 180 s 806; 2020 c 20 s 1447; 2019 c 265 s 7. Formerly RCW 70.360.070.]

Findings—Intent—2024 c 341: See note following RCW 70A.207.040.

Findings—Intent—Scope of authority of chapter 180, Laws of 2022—2022 c 180: See notes following RCW 70A.205.007.

Effective date—2020 c 20 ss 1446-1450: See note following RCW 70A.455.060.

RCW 70A.455.080 Submission of information demonstrating compliance with chapter—Other information. (1) Upon the request by a person, including the department, a producer shall submit to that person or the department, within 90 days of the request, nonconfidential business information and documentation demonstrating compliance with this chapter, in a format that is easy to understand and scientifically accurate.

(2) Upon request by a commercial compost processing facility, producers of compostable products are encouraged to provide the facility with information regarding the technical aspects of a commercial composting environment, such as heat or moisture, in which the producer's product has been field tested and found to degrade. [2022 c 180 s 807; 2019 c 265 s 8. Formerly RCW 70.360.080.]

Findings—Intent—Scope of authority of chapter 180, Laws of 2022—2022 c 180: See notes following RCW 70A.205.007.

RCW 70A.455.090 Enforcement of chapter—Penalties. (1)(a) The department and cities and counties have concurrent authority to enforce this chapter and to issue and collect civil penalties for a violation of this chapter, subject to the conditions in this section and RCW 70A.455.100. An enforcing government entity may impose a civil penalty in the amount of up to \$2,000 for the first violation of this chapter, up to \$5,000 for the second violation of this chapter, and up to \$10,000 for the third and any subsequent violation of this chapter. If a producer has paid a prior penalty for the same violation to a different government entity with enforcement authority under this subsection, the penalty imposed by a government entity is reduced by the amount of the payment.

(b) The enforcement of this chapter must be based primarily on complaints filed with the department and cities and counties. The department must establish a forum for the filing of complaints. Cities, counties, or any person may file complaints with the department using the forum, and cities and counties may review complaints filed with the department via the forum. The forum established by the department may include a complaint form on the department's website, a telephone hotline, or a public outreach strategy relying upon electronic social media to receive complaints that allege violations. The department, in collaboration with the cities and counties, must provide education and outreach activities to inform retail establishments, consumers, and producers about the requirements of this chapter.

(c) A city or county that chooses to enforce the requirements of this chapter within their jurisdiction must notify the department with a letter of intent that includes:

(i) The start and any end date of the local jurisdiction's enforcement activities;

(ii) The geographic boundaries within which the enforcement activities are planned; and

(iii) Any technical assistance, education, or enforcement tools that the city or county would like to request from the department in support of local enforcement activities.

(2) Penalties issued by the department are appealable to the pollution control hearings board established in chapter 43.21B RCW.

(3) The remedies provided by this section are not exclusive and are in addition to the remedies that may be available pursuant to chapter 19.86 RCW or other consumer protection laws, if applicable.

(4) In addition to penalties recovered under this section, the enforcing city or county may recover reasonable enforcement costs and attorneys' fees from the liable producer. [2024 c 341 s 504; 2022 c 180 s 808; 2020 c 20 s 1448; 2019 c 265 s 9. Formerly RCW 70.360.090.]

Findings—Intent—2024 c 341: See note following RCW 70A.207.040.

Findings—Intent—Scope of authority of chapter 180, Laws of 2022—2022 c 180: See notes following RCW 70A.205.007.

Effective date—2020 c 20 ss 1446-1450: See note following RCW 70A.455.060.

RCW 70A.455.100 Producers in violation of chapter—Penalties.

(1) Producers who violate the requirements of this chapter are subject to civil penalties described in RCW 70A.455.090. A specific violation is deemed to have occurred upon the sale of noncompliant product by stock-keeping unit number or unique item number. The repeated sale of the same noncompliant product by stock-keeping unit number or unique item number is considered a single violation.

(2)(a) A city or county enforcing a requirement of this chapter must send a written notice and a copy of the requirements to a noncompliant producer of an alleged violation, who will have 90 days to become compliant.

(b) A city or county enforcing a requirement of this chapter may assess a first penalty if the producer has not met the requirements 90 days following the date the notification was sent. A city or county may impose second, third, and subsequent penalties on a producer that remains noncompliant with the requirements of this chapter for every month of noncompliance.

(3) The department may only impose penalties under this chapter consistent with the standards established in RCW 43.21B.300. [2022 c 180 s 809; 2020 c 20 s 1449; 2019 c 265 s 10. Formerly RCW 70.360.100.]

Findings—Intent—Scope of authority of chapter 180, Laws of 2022—2022 c 180: See notes following RCW 70A.205.007.

Effective date—2020 c 20 ss 1446-1450: See note following RCW 70A.455.060.

RCW 70A.455.120 Rules—Producers' declaration—Enforcement.

(1) The department may adopt rules as necessary for the purpose of implementing, administering, and enforcing this chapter.

(2) Producers of a product subject to RCW 70A.455.040, 70A.455.050, or 70A.455.060 must submit, under penalty of perjury, a

declaration that the product meets the standards established under those sections of this chapter for the product. This declaration must be submitted to the department:

(a) By January 1, 2024, for a product that is or will be sold or distributed into Washington beginning January 1, 2024;

(b) Prior to the sale or distribution of a product newly sold or distributed into Washington after January 1, 2024; and

(c) Prior to the sale or distribution of a product whose method of compliance with the standards established in RCW 70A.455.040, 70A.455.050, or 70A.455.060 is materially changed from the method of compliance used at the last declaration submission under this section.

(3) The department must begin enforcing the requirements of this chapter by July 1, 2024. [2022 c 180 s 810.]

Findings—Intent—Scope of authority of chapter 180, Laws of 2022—2022 c 180: See notes following RCW 70A.205.007.

RCW 70A.455.130 Labeling a product "home compostable"—Requirements. A producer may only label a product as being "home compostable" if:

(1) The product has been tested and meets ASTM standards D6400 or D6868 for industrial composting settings;

(2) A third-party certifier has verified that the product meets ASTM standards for industrial composting;

(3) The product is otherwise labeled in a manner consistent with the requirements of this chapter, including RCW 70A.455.030, 70A.455.040, or 70A.455.050, as appropriate;

(4) The product is not labeled "home compostable only" or in a manner that otherwise implies that the product is not capable of being composted in industrial compost settings; and

(5) The producer has valid and reproducible scientific evidence to support their claim that a product is home compostable, consistent with federal trade commission guidelines. [2024 c 341 s 503.]

Findings—Intent—2024 c 341: See note following RCW 70A.207.040.