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**SENATE BILL 5022**

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**State of Washington 67th Legislature 2021 Regular Session**

**By** Senators Das, Rolfes, Carlyle, Dhingra, Keiser, Kuderer, Liias, Lovelett, Nobles, Nguyen, Pedersen, Saldaña, Salomon, Stanford, Wellman, and Wilson, C.

AN ACT Relating to the management of certain materials to support recycling and waste and litter reduction; amending RCW 43.21B.300, 70A.205.005, 70A.205.010, 70A.205.115, 70A.205.045, 70A.205.070, 81.77.030, 81.77.160, 81.77.185, and 81.80.470; reenacting and amending RCW 43.21B.110; adding a new chapter to Title 70A RCW; and prescribing penalties.

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

NEW SECTION. **Sec.**  FINDINGS—INTENT. (1) The legislature finds the department of ecology was directed, through an independent consultant, to study how plastic packaging is managed in the state, assess various policy options, and provide recommendations to achieve goals, that included:

(a) Plastic packaging sold into the state is 100 percent recyclable, reusable, or compostable by January 1, 2025.

(b) Plastic packaging sold into the state incorporates at least 20 percent postconsumer recycled content by January 1, 2025.

(c) Plastic packaging is reduced when possible and optimized to meet the need for it.

(2) The legislature also finds that the study recommendations included establishing an extended producer responsibility policy for all consumer packaging and paper with a framework that makes producers responsible for achieving specific management and environmental outcomes for the consumer packaging they supply into Washington state. In addition, the legislature finds extended producer responsibility policies designed to cover all material types collected through the state's existing recycling system offers the potential for greater economies of scale and operational efficiencies than could be achieved under a policy applied only to a subset of materials collected through that system.

(3) The legislature intends that the policy of the state is to ensure that by 2040 an overall recycling and reuse rate of 90 percent is achieved for plastic packaging and other packaging materials. The legislature further intends that these materials are recycled or reused through extended producer responsibility programs. It is the intent of the legislature that extended producer responsibility programs are implemented by and for producers of plastic packaging and other material types so that the design and management of their packaging is accomplished in a manner that ensures minimal environmental impact, involves producers from design concept to end-of-life management, and incentivizes innovation and research to minimize environmental impacts.

NEW SECTION. **Sec.**  DEFINITIONS. Except for section 21 of this act, the definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Aluminum" means a covered product made of the chemical element aluminum that forms a silvery white to dull gray, nonmagnetic metal.

(2) "Brand" means a name, symbol, word, or mark that identifies a product and attributes the product and its components, including packaging, to the brand holder of the product as the producer.

(3) "Brand holder" means a person who owns or licenses a brand or who otherwise has rights to market a product under the brand, whether or not the brand trademark is registered.

(4) "Compostable" means a covered product that is capable of undergoing aerobic biological decomposition in a system meeting the requirements of chapter 70A.205 RCW, that results in the material being broken down primarily into carbon dioxide, water, inorganic compounds, and biomass.

(5) "Consumer" means a person to whom a covered product is supplied that is the intended end user of the covered product.

(6) "Covered product" means packaging and paper products sold or supplied to consumers.

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

(8) "Designated for collection" means the covered products sold or supplied by a producer that are included in the material categories listed in the producer's plan to be collected for reuse or recycling.

(9) "Environmentally sound" means practices that:

(a) Comply with all applicable laws and rules to protect workers, public health, and the environment;

(b) Provide for adequate recordkeeping, tracking, and documenting of the fate of materials within the state and beyond; and

(c) Include environmental liability coverage for the producers or producer responsibility organizations implementing a plan.

(10) "Flexible plastic" means any covered product made of polymers that is flexible in form, including films and multilayer laminates.

(11) "Glass" means a covered product made of soda lime glass or borosilicate glass substance.

(12) "Material category" means a group of covered products that have similar properties such as chemical composition, shape, or other characteristics including, but not limited to:

(a) Plastic beverage containers;

(b) Other rigid plastic;

(c) Flexible plastic;

(d) Paper;

(e) Aluminum;

(f) Steel; and

(g) Glass.

(13) "Packaging" means a material, substance, or object that is:

(a) Used to protect, contain, transport, or serve a product;

(b) Sold or supplied to consumers expressly for the purpose of protecting, containing, transporting, or serving products;

(c) Attached to a product or its container for the purpose of marketing or communicating information about the product;

(d) Supplied at the point of sale to facilitate the delivery of goods; or

(e) Supplied to or purchased by consumers expressly for the purpose of facilitating food or beverage consumption that is ordinarily disposed of after a single use or short-term use, whether or not it could be reused.

(14) "Paper" means a covered product made of paper fiber, regardless of its cellulosic fiber source, which may include, but is not limited to: Wood, wheat, rice, cotton, bananas, eucalyptus, bamboo, hemp, and sugar cane or bagasse.

(15) "Paper product" means paper sold and supplied including, but not limited to, flyers, brochures, booklets, catalogs, newspapers, magazines, copy paper, printing paper, and all other paper materials except for: (a) Bound books; and (b) paper products that, by their use, could become unsafe or unsanitary to handle.

(16) "Plan" means description of the approach and activities developed by a producer or producer responsibility organization to fulfill the requirements and to carry out the responsibilities of producers under this chapter.

(17)(a) "Plastic beverage container" means a covered product made of rigid plastic for the beverages identified in (a)(i) through (v) of this subsection, intended for human or animal consumption, and in a quantity more than or equal to two fluid ounces and less than or equal to one gallon:

(i) Water and flavored water;

(ii) Beer or other malt beverages;

(iii) Wine;

(iv) Distilled spirits;

(v) Mineral water, soda water, and similar carbonated soft drinks; and

(vi) Any beverage other than those specified in this subsection, except infant formula.

(b) "Plastic beverage container" does not include rigid plastic containers or rigid plastic bottles that are medical devices, medical products that are required to be sterile, prescription medicine, and packaging used for those products.

(18) "Postconsumer recycled content" means the content of a product made of recycled materials derived specifically from postconsumer recycled material sources.

(19)(a) "Producer" means a person who meets one of the following criteria, in descending order of priority, for assigning responsibility to meet the requirements of this chapter:

(i) Is the brand holder of a brand under which the covered product is sold, offered for sale, or distributed in or into Washington;

(ii) Imports the covered product into Washington for sale, offer for sale, or distribution in the state, including remote sale or distribution, such as through sales outlets, catalogs, and the internet, but is not the brand holder as specified under (a)(i) of this subsection;

(iii) Elects to assume the responsibility and register in lieu of a producer as defined under (a)(i) and (ii) of this subsection; or

(iv) As determined by the department to be the responsible party for a covered product.

(b) "Producer" does not include:

(i) Government agencies, municipalities, or other political subdivisions of the state;

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

(iii) De minimis producers that annually sell, offer for sale, distribute, or import into the country for sale in Washington:

(A) Less than one ton of covered products each year; or

(B) Covered products that in aggregate generate less than $1,000,000 each year in revenue.

(20) "Producer responsibility organization" means:

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

(b) A single producer that develops and implements a plan to carry out the activities for its own covered products, as required by this chapter.

(21) "Program" means the activities conducted to implement a plan.

(22)(a) "Public place" includes streets, sidewalks, plazas, town squares, public parks, beaches, forests, or other public land open for recreation or other uses, and transportation facilities such as bus and train stations, airports, and ferry terminals.

(b) "Public place" does not include industrial, commercial, or privately owned property.

(23) "Recyclable" means a covered product that is regularly collected, separated, and reprocessed into a recycled material, and that does not contain harmful chemical, physical, biological, or radiological substances that will pose a threat to human health or the environment for its intended or likely manner of use.

(24)(a) "Recycled material" means material derived from covered products that is reprocessed into products or commodities used in the production of new products whether for the original or another purpose.

(b) "Recycled material" does not include energy recovery and the reprocessing of materials that are to be used as fuels or landfill cover.

(25) "Reusable" means a covered product that is sufficiently durable for multiple rotations of its original or similar purpose or function in a system of reuse.

(26) "Reused material" means material that is collected after use and reused for its original or similar purpose or function.

(27) "Rigid plastic" means any covered product made of plastic polymers that is rigid or semirigid in form, including foams.

(28) "Socially just management" means practices that:

(a) Allow every individual to benefit from the same economic, political, and social rights, privileges, and opportunities, free from socioeconomic status, regardless of: Race; health disparities; age; sex, including on the basis of gender identity or orientation; disability; religion; or other characteristics.

(b) Do not disproportionately impact any community and in particular communities in the state or elsewhere that bear disproportionately higher levels of adverse environmental, social justice, and economic impacts.

(29) "Steel" means any covered product made of a ferrous metal substance.

(30) "Toxic substance" includes chemicals or classes of chemicals restricted in:

(a) Children's products under chapter 70A.430 RCW and high priority chemical of high concern for children in chapter 173-334 WAC;

(b) Persistent bioaccumulative toxins listed in chapter 173-333 WAC; or

(c) Consumer products under chapter 70A.222, 70A.230, 70A.335, 70A.340, 70A.350, 70A.400, or 70A.405 RCW.

NEW SECTION. **Sec.**  PRODUCER RESPONSIBILITY ORGANIZATION DUTIES. (1) Beginning April 1, 2022, every producer must annually register with the department as an individual producer responsibility organization or join a third-party producer responsibility organization that is registered with the department. Producers that are not registered as or have not joined a producer responsibility organization may not sell or supply covered products in or into Washington.

(2) Third-party producer responsibility organizations must establish a governance structure for their organization that is managed by a board of directors comprised of producers subject to this chapter.

(3) By April 1, 2022, and each April 1st thereafter, every registered producer responsibility organization must submit with their registration the following:

(a) A list of all their member producers and brands;

(b) An annual payment, as determined by the department in section 4 of this act;

(c) Until a producer responsibility organization begins to submit annual reports, as specified under section 17 of this act, the following data for the prior calendar year:

(i) The weight, by material category, of covered products supplied into the state to consumers for residential use, accompanied by a description of how the producer or producer responsibility organization has distinguished and apportioned the quantities of packaging and paper covered products supplied to consumers for residential use from quantities supplied for nonresidential use that are not considered covered products under this chapter;

(ii) The quantity of covered products supplied that were designed to be reused or refilled, by material category, by weight and number of units; and

(iii) The postconsumer recycled content, by material category, of covered products supplied, including:

(A) The total postconsumer content by weight; and

(B) The total postconsumer content as a percentage of total weight;

(d) A producer may submit national data allocated on a per-capita basis for Washington to approximate the information required in this subsection if the producer demonstrates to the department that state-level data is not available or feasible to generate.

(4) Beginning January 1, 2024, every registered producer responsibility organization must submit a plan to the department that meets the requirements of sections 5 and 6 of this act.

(a) A producer responsibility organization registered with the department as of April 1, 2022, must:

(i) Implement its approved plan by July 1, 2025; and

(ii) Submit an annual report to the department consistent with section 17 of this act by September 1, 2026, and each September 1st thereafter.

(b) A producer responsibility organization registering with the department after April 1, 2022, must:

(i) Submit the list of producers, brands, data, and department payment as required in subsection (3) of this section;

(ii) Submit a plan, informed by a stakeholder consultation process, within one year of registration;

(iii) Implement its approved plan within six months of approval; and

(iv) Submit an annual report to the department consistent with section 17 of this act by September 1st, beginning the first year after plan approval.

(5) A producer or producer responsibility organization that submits information or records to the department under this chapter may request that the information or records be made available only for the confidential use of the department, the director, or the appropriate division of the department. The director of the department must give consideration to the request and if this action is not detrimental to the public interest and is otherwise in accordance with the policies and purposes of chapter 43.21A RCW, the director must grant the request for the information to remain confidential as authorized in RCW 43.21A.160.

NEW SECTION. **Sec.**  DEPARTMENT'S DUTIES. (1) The department must implement, administer, and enforce this chapter.

(a) By January 31, 2022, and every January 31st thereafter, the department must identify the annual costs it will incur under this chapter. The department must determine an annual payment by producer responsibility organizations that is adequate to cover, but not exceed, the department's full costs to implement, administer, and enforce this chapter in the next fiscal year, including rule making.

(b) Until the department has established an equitable payment schedule, the department must equally divide the annual payment among the number of producer responsibility organizations, except the department may not assign a share of annual payment more than $1,000 to producer responsibility organizations that represent a single producer and report less than 100 tons of covered products supplied during the most recent calendar year for which such data has been reported.

(2) By April 1, 2022, and every April 1st thereafter, the department must collect each registered producer responsibility organization's payment of the department's cost for the coming fiscal year. The department must:

(a) Apply any remaining annual payment funds from the current year to the annual payment for the coming year, if the collected annual payment exceeds the department's costs for a given year; and

(b) Increase annual payments for the coming year to cover the department's costs, if the collected annual payment was less than the department's costs for a given year.

(3) Beginning July 1, 2022, the department may determine the responsible party for a covered product when the responsible party is not a brand holder, does not import covered products into Washington, or has not elected to assume the responsibility for covered products.

(4)(a) The department must review new, updated, and revised plans submitted by producer responsibility organizations as required in section 18 of this act. The department must:

(i) Make new, updated, and revised plans available for public review and comment for at least 30 days,

(ii) Review new, updated, and revised producer responsibility organization plans within 120 days of receipt of a complete plan;

(iii) Make a determination as to whether or not to approve a plan, plan update, or plan revision and notify the producer responsibility organization of the:

(A) Determination of approval if a plan provides for a program that meets the requirements of this chapter, taking into consideration comments received under (a)(i) of this subsection; or

(B) Reasons for not approving a plan. The producer responsibility organization must submit a new or revised plan within 60 days after receipt of the letter of disapproval.

(b) The approval of a plan by the department does not relieve producers participating in the plan from responsibility for fulfilling the requirements of this chapter.

(5) Beginning July 1, 2022, the department may develop criteria to determine whether the covered products are reusable, recyclable, or compostable. When developing the criteria, the department must, at minimum, consider whether covered product materials: Are or may be collected, separated, and processed in sufficient quantity and quality into a marketable feedstock that can be used in the production of new products; contain toxic substances; or are designed in a way that is problematic for reuse, recycling, or composting.

(6) The department may adopt rules as necessary to implement, administer, and enforce this chapter including, but not limited to:

(a) Establishing an equitable formula for determining each producer responsibility organization's share of the annual payment necessary to cover the department's costs, as identified under subsection (1) of this section;

(b) Establishing additional plan content in addition to the requirements established under section 6 of this act, as necessary to fulfill the intent of this chapter;

(c) Requiring producers to collect and manage covered products from additional locations or entities determined to be significant sources of covered product waste including, but not limited to, public places and events;

(d) Establishing additional elements to be included as annual reporting requirements, in section 17 of this act, necessary to determine the program's compliance with the requirements of this chapter;

(e) Establishing third-party audit and verification requirements; or

(f) Establishing processes for new, updated, and revised plan approvals as required in section 18 of this act.

(7)(a) Beginning in 2025, and every other year thereafter, or upon the petition from a representative of the producer responsibility organization, but not more than annually, the department shall consider whether the minimum postconsumer recycled content requirements established in section 9 of this act should be waived or reduced.

(b) The department must consider a petition from producers or producer responsibility organizations within sixty days of receipt.

(c) The department may adopt rules to implement, administer, and enforce minimum postconsumer recycled content of covered products, and to adjust minimum postconsumer recycled content. In making a determination to adjust the minimum postconsumer recycled content requirements, the department may consider the following:

(i) Changes in market conditions, including supply and demand for postconsumer recycled plastics, collection rates, and bale availability;

(ii) Recycling rates;

(iii) The availability of suitable materials and feedstocks to meet the minimum postconsumer recycled content requirements;

(iv) The capacity of recycling or processing infrastructure; and

(v) The carbon footprint, and other environmental and social impacts, of the transportation and processing of the recycled material.

(d) If the department determines that a minimum postconsumer recycled content requirement should be adjusted, the adjusted rate must be in effect until a new determination is made or upon the expiration of the minimum postconsumer recycled content requirement's effective period, whichever occurs first. The department may not adjust the minimum postconsumer recycled content requirements above the minimum postconsumer recycled content percentages, as established under section 8(2) of this act.

(8)(a) Beginning January 1, 2028, and no more frequently than every five years, the department may by rule:

(i) Establish reuse and recycling performance requirements for years not specified in section 8(2) of this act;

(ii) Add reuse and recycling performance requirements for additional material categories not specified in section 8(2) of this act; and

(iii) Adjust the reuse and recycling performance requirements established in section 8(2) of this act. In making a determination to adjust the reuse and recycling performance requirements, the department may consider the following:

(A) Changes in market conditions, including supply and demand for recycled materials, collection rates, and availability;

(B) The capacity of sorting or processing infrastructure; and

(C) The carbon footprint and other social justice and environmental impacts of the production and transportation of the recycled material.

(b) If the department determines that a minimum reuse and recycling performance requirement should be adjusted, the adjusted requirement must be in effect until a new determination is made or upon the expiration of the minimum reuse and recycling performance requirement's effective period, whichever occurs first. The department may not adjust the overall minimum reuse and recycling performance requirements for all covered products below the requirements established under section 8(2) of this act for the years specified.

(c) The department may by rule add or amend material categories in section 8(2) of this act to be included in the reuse and recycling rate calculations as required in section 8(3)(g) of this act.

(d) A producer or producer responsibility organization may appeal adjustments to the minimum reuse and recycling performance requirement as determined under section 8(4) of this act to the pollution control hearings board within 30 days of the department's determination.

(9) Beginning July 1, 2022, the department may determine that a producer responsibility organization that achieves the reuse and recycling rate requirements established for each material category of covered products supplied into the state as provided in section 8(2)(c) of this act and achieves the minimum reuse rates as established in section 8(2) (a) and (b) of this act is considered to achieve the overall reuse and recycling performance requirements for all covered products.

(10) Beginning July 1, 2022, the department must maintain a public website that:

(a) Lists producers and their covered products that are participating in an approved plan; and

(b) Makes available each plan and annual report received by the department under this chapter.

(11)(a) The department may administratively impose a civil penalty of up to $1,000 per violation per day on any person who violates this chapter and up to $10,000 per violation per day on any person who intentionally, knowingly, or negligently violates this chapter.

(b) Any person who incurs a penalty under this section may appeal the penalty to the pollution control hearings board established in chapter 43.21B RCW.

(c) Penalties levied under this subsection must be deposited in the responsible packaging management account created in section 22 of this act.

NEW SECTION. **Sec.**  PLAN PARTICIPATION OBLIGATION—STAKEHOLDER CONSULTATION FOR PLAN. (1) Each producer of covered products must participate in, implement, and fund an approved plan.

(2)(a) A producer that fulfills its responsibilities under this chapter through a producer responsibility organization is responsible jointly and severally, and does not assign its responsibilities under this chapter to the producer responsibility organization.

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

(c) A producer responsibility organization must develop and maintain a public website with enhanced language access informing the public of plan implementation details, including collection services and locations for each type of covered product, and a current list of all producers participating in the plan.

(3) Prior to submitting a new, updated, or revised plan to the department, a producer or producer responsibility organization must conduct a consultation process to solicit and respond to input from stakeholders and from the advisory committee established under section 20 of this act. The consultation process required in advance of the submission of a plan to the department is in addition to the department-led public comment process specified in section 4(4) of this act. The consultation process must:

(a) Address all elements of the system including collection, sorting, processing, reuse, use of recycled materials, and education;

(b) Allow opportunities for all stakeholders and members of the public to provide comment on the plan prior to its submission to the department;

(c) Offer various formats and languages as necessary for presenting the plan and receiving comments including workshops, surveys, webinars, and one-on-one meetings; and

(d) Document all comments received and responsive answers provided by the producer or producer responsibility organization for purposes of a stakeholder consultation report to be included with the submission of a plan to the department. The stakeholder consultation report must also describe each forum in which comment or input was received by the plan proponent.

NEW SECTION. **Sec.**  PLAN CONTENTS—OVERVIEW. (1) A producer responsibility organization must submit a plan to the department describing the approach and activities to fulfill the requirements of this chapter.

(2) All plans and plan updates must contain the following components:

(a) A list and brief explanation of the covered products supplied or sold in or into Washington by each producer and by brand participating in the plan;

(b) A description of how the:

(i) Producer responsibility organization will fulfill the requirements of this chapter;

(ii) Program will use and interact with recycling programs and infrastructure that predate the implementation of the plan, including a description of procurement practices; and

(iii) Producers will increase the reuse, refill, and recyclability of covered products;

(c) A description of actions to be taken to:

(i) Work with and achieve the goals of underserved and underrepresented communities that bear a disproportionate share of adverse environmental, social justice, and economic impacts through socially just management practices including, but not limited to, community outreach and engagement in the appropriate language of the impacted communities and meaningful consultation; and

(ii) Increase the efficiency of the system of collecting and managing covered products through reuse and recycling;

(d) Protocols for producers retaining the right of first refusal of recycled materials produced from covered products collected;

(e) The identification of market engagement strategies for collection and recycling services, except for services provided under chapter 81.77 RCW, to be used in direct procurement of services in order to ensure open competition among waste management service providers and improve effectiveness and efficiency including, but not limited to, strategies that involve the use of competitive tenders or open-market financial incentives;

(f) A list of covered products designated for collection as required under section 11 of this act. The list must include covered products designated for collection:

(i) From residents through curbside collection and, where curbside garbage service is not available, through permanent collection facilities;

(ii) That have been determined to be problematic for inclusion in curbside collection and therefore designated for collection using alternate means; and

(iii) From residents through public place collection;

(g) A description of the activities to be undertaken to meet the convenience standards for collection of covered products as established under section 11 of this act, including the jurisdictions where curbside collection services are available, the location of each permanent collection facility, the types and locations of alternate collection methods used, and the locations of public place collection services;

(h) A plan to minimize the amount, cost, and toxicity of residuals from the collection and processing of covered materials designated for collection. These include residuals from materials recovery facilities or similar facilities producing specification-grade commodities for sale, but do not include residuals from further processing of end market-ready material;

(i) A plan for collecting, transporting, and processing covered products to ensure responsible management and recycling, including:

(i) Achieving the reuse and recycling performance requirements in section 8 of this act;

(ii) Providing material that will assist producers in meeting recycled content requirements specified in section 9 of this act; and

(iii) Ensuring covered products designated for collection do not contain toxic substances;

(j) A description of how plan implementation will:

(i) Achieve equity in the provision of recycling collection services in the state; and

(ii) Rely upon environmentally sound and socially just management practices for worker health and safety;

(k) A description of how producer fees and fee modulation will incorporate design for recycling and litter prevention as objectives, consistent with activities and the mission of the litter tax imposed by RCW 82.19.010 and authorized under chapter 70A.200 RCW;

(l) A plan for addressing contamination from covered products at compost or other organics processing facilities and similar facilities, including through decontamination equipment improvements and conducting packaging contamination composition studies;

(m) A plan for education and outreach as required under section 16 of this act, including how cities and counties will be involved in and reimbursed for education and outreach activities that support the achievement of the reuse and recycling performance requirements under section 8 of this act;

(n) A summary of the plan development stakeholder consultation process undertaken consistent with section 5(3) of this act;

(o) The dispute resolution process to be used, as needed, with residents, collectors, processors, producers, and end-market users of materials; and

(p) Any other information to be included in the plan as required by the department by rule.

(3) In addition to the components specified in subsection (2) of this section, producer responsibility organizations implementing plans on behalf of more than one producer must include the following plan elements:

(a) A description of the structure and governance of the producer responsibility organization, including the membership of the advisory committee required under section 20 of this act; and

(b) A description of the collection and structure of the fees owed by producers to be used to implement the plan, consistent with section 10 of this act.

NEW SECTION. **Sec.**  COLLECTION AND MANAGEMENT. (1) Producers must manage covered products in a manner consistent with the state's solid waste management hierarchy established in RCW 70A.205.005.

(2) Covered products collected by the program must be managed in an environmentally sound and socially just manner at facilities operating with human health and environmental protection standards that are broadly equivalent to or better than those required in the United States and other countries that are members of the organization for economic cooperation and development.

(3) Producer responsibility organizations implementing a plan must:

(a) Include measures to track, verify, and publicly report that covered products collected by the program are managed responsibly.

(b) Take measures to:

(i) Promote and facilitate reuse of covered products designed to be reused;

(ii) Promote responsible recycling;

(iii) Meet the necessary quality standards for recycled materials so that covered products collected by the program may be used to manufacture new products; and

(iv) Ensure that covered products collected for recycling do not contain toxic substances.

(c) Document how they have used domestic and local collection and processing infrastructure and the extent to which the use of domestic and local collection and processing infrastructure to meet the requirements under this chapter is technologically feasible and economically practical.

(4)(a) Prior to program use of any advanced technology for conversion of postuse plastic polymers for the purpose of producing recycled material to be counted toward reuse and recycling performance targets, the producer responsibility organization must provide the department with a third-party assessment prepared to examine the impact of the advanced technology on the following:

(i) Air and water pollution and release or creation of any hazardous pollutants; and

(ii) The greenhouse gas emissions resulting from products and processes of the advanced technology facility, taking into account the full life cycle including final use of products.

(b) The results of the assessment under (a) of this subsection must, whenever reported and communicated, provide full disclosure of geographical, temporal, and technological boundaries that have been selected for the assessment.

(c) The person preparing the assessment under (a) of this subsection may not be interested, directly or indirectly, in the ownership or operation of the advanced recycling facility.

NEW SECTION. **Sec.**  REUSE AND RECYCLING PERFORMANCE REQUIREMENTS. (1) To meet the reuse and recycling performance requirements established in this section, a producer must:

(a) Demonstrate that all covered products are reusable, recyclable, or compostable by January 1, 2030;

(b) Demonstrate that the covered products collected by the program were managed consistent with section 7 of this act;

(c) Authenticate, verified by an independent third party, the reuse and recycling rates of covered products, as specified under subsections (2) through (4) of this section, and provide the verification to the department as part of the annual reporting requirements established under section 17 of this act.

(2) At minimum, each plan must achieve the following performance requirements:

(a) By 2026, a minimum of 55 percent of all covered products supplied into the state are reused or recycled, with a minimum of five percent reused;

(b) By 2030, a minimum of 75 percent of all covered products supplied into the state are reused or recycled, with a minimum of 10 percent reused;

(c) For each material category of covered products supplied into the state, producer responsibility organizations must achieve the following combined reuse and recycling rates:

|  |  |  |
| --- | --- | --- |
| Material category | By 2026 achieve the minimum combined reuse and recycle rates | By 2030 achieve the minimum combined reuse and recycle rates |
| Rigid plastic, including plastic beverage containers | 25 percent | 60 percent |
| Flexible plastic | 10 percent | 25 percent |
| Paper | 60 percent | 85 percent |
| Aluminum | 55 percent | 75 percent |
| Steel | 45 percent | 75 percent |
| Glass | 70 percent | 85 percent |

(3) For the purposes of this chapter, the amount of recycled material must be measured at the following calculation point for each material category of covered products included in the plan:

(a) Rigid plastic material that:

(i) Does not undergo further processing before entering pelletization, extrusion, molding, or advanced recycling for plastic polymers;

(ii) Is flaked and does not undergo further processing before use in a final product; or

(iii) Is compostable and is delivered to an industrial composting facility under an agreement with that facility.

(b) Flexible plastic material that:

(i) Does not undergo further processing before entering pelletization, extrusion, molding, or advanced recycling for plastic polymers;

(ii) Is flaked and does not undergo further processing before use in a final product; or

(iii) Is compostable and is delivered to an industrial composting facility under an agreement with that facility.

(c) Paper material that:

(i) Does not undergo further processing before entering a pulping operation; or

(ii) Is compostable and is delivered to an industrial composting facility under an agreement with that facility.

(d) Aluminum material that does not undergo further processing before entering a metal smelter or furnace.

(e) Steel material that does not undergo further processing before entering a metal smelter or furnace.

(f) Glass material that does not undergo further processing before entering a glass furnace or the production of filtration media, abrasive materials, glass fiber insulation, and construction materials.

(g) For materials that are not included in the material categories listed in (a) through (f) of this subsection, the calculation point must be proposed and described by the producer responsibility organization in its plan and annual report and is subject to approval by the department in order to be included in the reuse and recycling rate calculation.

(4) For each material category of covered product included in the plan, the combined reuse and recycling rate must be calculated as the sum of the amount of reused material and recycled material managed by the program in a given year, divided by the amount of covered products supplied into the state in the same year, expressed as a percentage, where:

(a) Covered products supplied into the state in a given year is the amount calculated in accordance with section 17(2)(a) of this act;

(b) Reused material is the amount of covered product managed by the program in the same year that was sold or supplied for reuse for their original or similar purpose or function; and

(c) Recycled material is the amount produced from covered products managed by the program in the same year measured in accordance with subsection (3) of this section.

(5) A producer that does not achieve the reuse and recycling performance requirements established in subsection (2) of this section, either individually or through a producer responsibility organization, must submit a revised plan to the department no later than 90 days after submitting an annual report as required under section 17 of this act, in which the failure to achieve the reuse and recycling performance requirements are identified. The revised plan must include changes to the plan specifying how the program will be modified to meet the requirements of this section.

NEW SECTION. **Sec.**  POSTCONSUMER RECYCLED CONTENT. (1) To meet the postconsumer recycled content requirements established in this section, a producer must authenticate the postconsumer recycled content of covered products through third-party verification and provide the verification to the department as part of the annual reporting requirements established under section 17 of this act.

(2) A producer that sells, offers for sale, or distributes plastic beverage containers in or into Washington must meet the following annual minimum postconsumer recycled plastic content for the total quantity of plastic beverage containers that are sold, offered for sale, or distributed in Washington effective:

(a) January 1, 2025, through December 31, 2029: No less than 25 percent postconsumer recycled plastic by weight;

(b) On and after January 1, 2030: No less than 50 percent postconsumer recycled plastic by weight.

(3)(a) For all other covered products, a producer responsibility organization must meet the following annual minimum postconsumer recycled content, by material category, for the total quantity of all covered products except for plastic beverage containers that are supplied into the state:

|  |  |  |
| --- | --- | --- |
| Material category | By 2026 achieve average annual minimum postconsumer recycled content of covered products | By 2030 achieve average annual minimum postconsumer recycled content of covered products |
| Other rigid plastic | 30 percent | 50 percent |
| Flexible plastic | 10 percent | 30 percent |
| Paper packaging | 50 percent | 75 percent |
| Other paper products | 25 percent | 50 percent |
| Aluminum | 50 percent | 70 percent |
| Steel | 30 percent | 50 percent |
| Glass | 40 percent | 60 percent |

(b) A producer responsibility organization may establish and implement a mechanism for the generation and trading of postconsumer recycled content credits for the purpose of achieving the minimum recycled content as established under this subsection, to be accompanied by authentication through third-party verification in accordance with subsection (1) of this section.

(4) A producer that does not achieve the postconsumer recycled content requirements established under subsections (2) and (3) of this section, either individually or through a producer responsibility organization, must submit a revised plan to the department no later than 90 days after submitting an annual report as required under section 17 of this act, in which the failure to achieve the postconsumer recycled content requirements are identified. The revised plan must include changes to the plan specifying how the program will be modified to meet the requirements of this section.

(5)(a) Beginning in 2025, and every other year thereafter, or at the petition from a representative of the producer responsibility organization but not more than annually, the department shall consider whether the minimum postconsumer recycled content requirements established under subsections (2) and (3) of this section should be waived or reduced.

(b) The department must consider a petition from producers or producer responsibility organizations within 60 days of receipt.

(6) A producer or producer responsibility organization may appeal adjustments to the requirement for minimum postconsumer recycled content as determined under section 4(7) of this act and subsection (5) of this section to the pollution control hearings board within 30 days of the department's determination.

NEW SECTION. **Sec.**  FUNDING REQUIREMENTS. (1) A nonreimbursable point-of-sale fee may not be charged to consumers to recoup the costs of meeting producer obligations under this chapter.

(2) A producer responsibility organization implementing a plan must fully fund all activities required under this chapter.

(3)(a) A producer responsibility organization implementing a plan on behalf of other producers must develop a system to collect charges from participating producers to cover the costs of plan implementation in an environmentally sound and socially just manner that encourages the use of design attributes that reduce the environmental impacts of covered products, such as through the use of eco-modulated fees to:

(i) Encourage designs intended to facilitate reuse and recycling;

(ii) Encourage the use of recycled content;

(iii) Discourage the use of problematic materials that increase system costs of managing covered products; and

(iv) Encourage other design attributes that reduce the environmental impacts of covered products including, but not limited to, the potential to create litter.

(b) Any system of program charges owed by producers that includes discounted charges or favorable treatment of covered products deemed to be reusable must establish a basis for determining that products, in practice, are typically reused a minimum number of times.

(4) Fees collected for department duties under section 4 of this act may only reimburse costs directly associated with the implementation, administration, and enforcement of this chapter.

NEW SECTION. **Sec.**  CONVENIENCE STANDARDS. (1) In every jurisdiction in which covered products are sold or supplied to consumers, a producer responsibility organization must ensure convenient collection services are available for the full list of covered products designated for collection in the plan. Convenient collection services must be available to residents as follows:

(a) Curbside collection must be provided to residents in single-family and multifamily residences wherever curbside garbage collection services are provided to these entities, except for covered products designated for alternate collection;

(b) In jurisdictions without curbside garbage collection, and in all areas for covered products designated for alternate collection, free and equitable access to permanent collection facilities must be provided that are located at each solid waste transfer, processing, or disposal site, and at additional locations as needed to provide convenient access for residents. For the purposes of this section, "convenient access" means:

(i) At least 90 percent of Washington residents have access to a permanent collection site within a 15 mile radius and one additional permanent site for every 30,000 residents of an urbanized area and for every urban cluster of at least 30,000 residents unless otherwise approved by the department.

(ii) A reasonable opportunity to drop off covered materials at collection events for underserved areas where the population does not have a permanent collection location within a 15 mile radius. The producer responsibility organization, in consultation with the department and the local community, must determine a reasonable frequency and location of collection events to be held in underserved areas. The producer responsibility organization must give special consideration for providing opportunities to island and geographically isolated populations;

(c) Under initial plan implementation, collection must be provided in public places where recycling collection receptacles were in place and managed by government agencies prior to the effective date of this section.

(2) Every producer responsibility organization must identify in its plan and on its website, in appropriate languages, each area where curbside and alternative collection services are available, the location of each permanent collection opportunity for covered products, the types and locations of alternate collection methods used, and the locations of public place collection services.

NEW SECTION. **Sec.**  OPTIONS FOR CONTRACTING WITH LOCAL GOVERNMENTS—AUTHORITY TO COLLECT COVERED PRODUCTS. (1) The provisions of this chapter do not:

(a) Obligate a county, city, or town that utilizes its contract authority under RCW 81.77.130 for collection of source separated recyclable materials from residents or a city or town that undertakes collection of source separated recyclable materials from residents to participate in a plan implemented by a producer or a producer responsibility organization;

(b) Restrict the authority of a city under RCW 35.21.120, 35.21.130, and 35.21.152; or

(c) Restrict the authority of a county under RCW 36.58.040.

(2) A city or town in accordance with its authority under chapter 35.21 RCW, or county in accordance with its authority under chapter 36.58 RCW, may enter into contractual agreements with producers or producer responsibility organizations under which the city, town, or county:

(a) Collects covered products from residents in single-family and multifamily residences within its jurisdiction; or

(b) Arranges for reimbursement from producers to cover the costs incurred by the county, city, or town for collection of covered products.

(3) Curbside collection of covered products as source separated recyclable materials from residences in areas regulated by the utilities and transportation commission under the provisions of chapter 81.77 RCW must be provided:

(a) By a company that holds an applicable certificate issued by the commission, except as authorized under subsection (4) of this section;

(b) To residents in single-family and multifamily residences wherever curbside garbage collection services are provided; and

(c) In a manner consistent with the requirements of this chapter.

(4) The utilities and transportation commission may exempt collection and transport of covered products as source separated recyclable materials from residences from the provisions of chapter 81.77 RCW in any areas of the state where the company holding an applicable certificate:

(a) Did not provide collection of covered products as source separated recyclable materials from residences prior to implementation of this act; or

(b) Notifies the commission of its intention to relinquish the authority to collect recyclable materials from residences granted under its certificate.

(5) Cities and counties may carry out resident education and outreach consistent with producer plan provisions under section 16 of this act and be reimbursed for the costs of these initiatives, subject to mutual agreement between the jurisdiction and the producer responsibility organization, using an approach specified in the plan.

NEW SECTION. **Sec.**  SERVICE PROVIDER COST REIMBURSEMENT FOR SERVICES REGULATED BY THE UTILITIES AND TRANSPORTATION COMMISSION. In areas where collection of source separated recyclable materials from residences is regulated by the utilities and transportation commission under chapter 81.77 RCW:

(1) Producers must provide reimbursement to the company granted a certificate to provide the service in accordance with the rates approved by the commission, including all associated taxes and fees that would be otherwise charged to residential customers directly or indirectly for recycling service; and

(2) The commission may review the financial operations of any private recycling business that receives source separated recyclable materials collected from residences from a company granted a certificate to provide the service for the purposes of regulating rates and fees charged to producers for handling of these materials.

NEW SECTION. **Sec.**  SERVICE PROVIDER AGREEMENTS. Except as provided for in section 12 of this act, to carry out producer responsibilities under this act, producers that enter into contractual agreements with service providers, including cities, counties, and private entities must:

(1) Use open, competitive, and fair procurement practices;

(2) Compensate cities and counties that provide collection or outreach services under section 11 of this act for all reasonable costs associated with the services provided;

(3) Ensure that all contracted service providers:

(a) Meet minimum operating standards, including the requirements of this chapter and chapter 70A.205 RCW;

(b) Operate in an environmentally sound and socially just manner;

(c) Meet high labor standards, including family-level wages, providing benefits including health care and pensions, and demonstrate procurement from and contracts with women, minority, or veteran-owned businesses; and

(d) Provide fair opportunities regardless of ethnicity, race, gender, age, disability, religion, sexual orientation, or national origin; and

(4) Ensure that contracted service providers maintain records and provide the producer responsibility organization with verifiable chain of custody documentation and other documentation necessary to evaluate the performance relative to the requirements of this chapter. Producers, individually or through a producer responsibility organization, must submit the records and documentation required under this subsection to the department, upon request by the department.

NEW SECTION. **Sec.**  INFRASTRUCTURE INVESTMENTS. (1) Each producer responsibility organization must invest in reuse and recycling infrastructure and market development in Washington state. This may include, but is not limited to:

(a) Installing or upgrading equipment to improve sorting of covered products or mitigating the impacts of covered products to other commodities at existing sorting and processing facilities; and

(b) Capital expenditures for new technology, equipment, and facilities.

(2) Infrastructure investments must be detailed in the annual report submitted to the department.

NEW SECTION. **Sec.**  EDUCATION AND OUTREACH. Each plan implemented by producer responsibility organizations under this chapter must include an education and outreach component that is designed to provide clear, equitable, socially just, and consistent information to residents and support the achievement of the reuse and recycling performance requirements under section 8 of this act that, at minimum:

(1) Uses consistent and easy to understand messaging and education statewide adapted to the diverse communities of the state, with the aim of reducing resident confusion regarding the recyclability and end-of-life management options available for different covered products;

(2) Establishes a process for answering customer questions and resolving customer concerns;

(3) Provides outreach and educational resources that are conceptually, linguistically, and culturally accurate for the communities served and reach the state's diverse ethnic populations, including through meaningful consultation with communities that bear disproportionately higher levels of adverse environmental and social justice impacts;

(4) Develops and provides outreach and educational materials about the program to be used by retailers, collectors, government agencies, and nonprofit organizations;

(5) Informs producers and retailers about their obligation to sell only covered products of producers participating in an approved plan; and

(6) Evaluates the effectiveness of education and outreach efforts for the purposes of making progress toward performance requirements established in this chapter.

NEW SECTION. **Sec.**  ANNUAL REPORTING ON ACTIVITIES. (1) Beginning September 1, 2026, and each September 1st thereafter, each producer responsibility organization must submit an annual report to the department for the preceding calendar year of plan implementation. The annual report must include plan implementation activities as required by this chapter.

(2) Each annual report must include the following information:

(a) The quantity of covered products supplied, including:

(i) A list and brief explanation of the covered products supplied or sold in or into Washington to consumers by each producer and by brand participating in the program and a list of covered products supplied that are designated for collection through curbside collection or by an alternate means under the approved plan;

(ii) The weight and, where applicable and determined by the department to be necessary, number of units, by material category, of covered products supplied into the state to consumers for residential use, to be used for the purposes of calculating the reuse and recycling rate requirements under section 8 of this act; and

(iii) A description of how the producer responsibility organization has distinguished and apportioned the quantities of packaging and paper supplied to consumers for residential use, which are considered covered products under this chapter, from quantities supplied for nonresidential use that are not considered covered products under this chapter;

(b) The quantity of covered products supplied that were designed to be reused or refilled, by material category, by weight and, where applicable and determined by the department to be necessary, number of units;

(c) The quantity of postconsumer recycled content, by material category, of covered products supplied, measured in accordance with the requirements in section 9 of this act and including the total postconsumer content by: (i) Weight; and (ii) as a percentage of total weight;

(d) The quantity of material managed and methods of management by the program, including the weight:

(i) Of all material managed by the program, by material category, including covered products and other materials;

(ii) And number of units, where applicable and determined by the department to be necessary, by material category, of reused material managed by the program, measured as defined in section 8 of this act;

(iii) And number of units, where applicable and determined by the department to be necessary, by material category, of recycled material managed by the program, measured as defined in section 8 of this act;

(iv) By material category, of material managed by the program sent for energy recovery;

(v) By material category, of material managed by the program sent for landfill disposal; and

(vi) By material category, of material managed by the program for other methods of management not listed in (d)(ii) through (v) of this subsection, accompanied by a description of each other method used;

(e) The final destinations of recycled material managed by the program, including a list of:

(i) Names and locations of end users or reprocessors that received recycled material managed by the program, by material category; and

(ii) Descriptions of the forms of recycled material managed by the program that were sold or supplied to the end users or reprocessors;

(f) The reuse and recycling rates achieved by the program, for each material category of covered product supplied and for all covered products supplied into the state, calculated in accordance with the requirements in section 8 (3) and (4) of this act;

(g) A description of the levels and types of physical contamination in the materials collected and managed by the program;

(h) Activities undertaken to meet the convenience standards for collection of covered products as established under section 11 of this act, including:

(i) A list of jurisdictions and service providers where curbside collection services are provided by the program, accompanied by a brief description of services provided, locations and operating hours of permanent collection facilities, types and locations of alternate collection methods used, and locations of public place collection services; and

(ii) Collection service accessibility and convenience metrics, including population coverage, the geographic distribution of collection, and the distance of collection locations to state residents;

(i) A description of the investments made in reuse and recycling infrastructure and market development in Washington state, including the amount spent expressed as a percentage of the program's total annual expenditures;

(j) A description of education and outreach activities undertaken and a summary of the evaluation of education and outreach effectiveness;

(k) A description of actions taken to:

(i) Reduce the life-cycle environmental impacts of covered products supplied or sold in or into Washington and to increase reuse, refill, and recyclability of covered products;

(ii) Increase collection and recycling system efficiency, including:

(A) The establishment of any financial incentives for collection;

(B) Reductions in contamination through public education and outreach or labeling of products, infrastructure upgrades, and market development; and

(C) The establishment of new collection services or locations;

(iii) Provide and expand public place recycling, coordinate with the department on litter prevention measures, and reduce contamination from packaging at compost and other organics processing facilities;

(iv) Address toxic substances in covered products;

(v) Achieve equity in the provision of covered product collection services in the state, including in communities bearing disproportionate burdens from environmental, social justice, and economic impacts; and

(vi) Manage covered products in an environmentally sound and socially just manner that exceeds human health, safety, and environmental protection standards;

(l) An assessment of the greenhouse gas emissions associated with program operations, including both direct emissions and indirect emissions with all activities, and including the avoided emissions from source reduction, reuse, and recycling of covered products into new products and materials;

(m) Identification of the governing board members of a producer responsibility organization and the identification of the members of the advisory committee formed under section 20 of this act;

(n) A summary of advisory committee engagement and input as well as comments received from additional stakeholders and community members; and

(o) Any other information required by the department, as adopted by rule.

(3)(a) Prior to the submission of the annual report, all data and information that is material to the department's review of the program's compliance with the requirements of this chapter must be annually audited and verified by an independent third party.

(b) Annual independent auditing and verification must:

(i) Include documentation of the reuse and recycling rate and recycled product content;

(ii) Encompass the management of materials from the point of collection through processing and sale of recycled materials; and

(iii) Determine whether all facilities involved in the collection, processing, and final disposition of collected covered products are managed in an environmentally sound and socially just manner.

(4) The department may adopt rules to establish annual reporting requirements, information to be included, and third-party verification requirements necessary for the department to determine the program's compliance with requirements of this chapter.

NEW SECTION. **Sec.**  PLAN APPROVAL, UPDATES, AND REVISIONS. (1)(a) A producer responsibility organization must submit a plan to the department that addresses five calendar years of operation. A plan is valid for no more than five years.

(i) Within three years of implementation of its initial plan, a producer responsibility organization must submit an updated plan for the following five calendar years to address changes in the operations and activities of the program.

(ii) For all subsequent plans submitted after the initial plan, a producer responsibility organization must submit, one year prior to the expiration of the plan, an updated plan for the following five calendar years of operation to address changes in the operations and activities of the program.

(b) If the reuse and recycling performance requirements established under section 8 of this act have not been met as of the time of plan update, an independent evaluation must be conducted of the producer responsibility organization's efforts to implement the approved plan. The evaluation must provide information for the producer responsibility organization to use to target and improve reuse and recycling rate performance.

(c) A producer responsibility organization must carry out the consultation process established in section 5 of this act prior to the submission of each plan and plan update.

(2)(a) Producers may choose to revise their plan if significant changes have occurred.

(b) The department may require a producer responsibility organization to revise its plan more frequently than every five years if:

(i) The program and activities to implement the plan fail to achieve the reuse and recycling performance requirements established in section 8 of this act or otherwise fail to achieve significant requirements under this chapter; or

(ii) There are significant changes to the regulatory or economic environment in which plan activities are being carried out.

(3) The department must review new, updated, and revised plans submitted by producer responsibility organizations as required in section 4(4) of this act.

NEW SECTION. **Sec.**  PRIVATE RIGHT OF ACTION. (1) A producer or producer responsibility organization implementing an approved plan may bring a civil action or actions to recover costs, damages, and fees, as specified in this section, from any producer who sells or otherwise makes available in Washington covered products not included in an approved plan. An action under this section may be brought against one or more defendants. An action may only be brought against a defendant producer when the producer responsibility organization or a producer incurs costs in Washington, including reasonable incremental administrative and program promotional costs, in excess of $1,000 to collect, transport, and recycle or otherwise dispose of the covered products of a nonparticipating producer.

(2) A producer or producer responsibility organization may bring a civil action against another producer or producer responsibility organization that underperforms on its collection or recycling rate obligations under this chapter by failing to collect and provide for the end-of-life management of covered products in an amount roughly equivalent to the national market share of the covered products of the producer or of the national market share of covered products of all producers participating in a plan implemented by a producer responsibility organization. Producers participating in a producer responsibility organization that underperforms its obligations under this chapter are liable jointly and severally.

(3) The remedies provided in this section are in addition to the enforcement authority of the department and do not limit and are not limited by a decision by the department to impose a civil penalty or issue an order under chapter 43.21B RCW. The department is not required to audit, participate in, or provide assistance to a producer or producer responsibility organization pursuing a civil action authorized under this subsection.

(4) A producer responsibility organization or producer may only bring a civil action if the producer or the producer responsibility organization has, at least 30 days prior, provided the underperforming producer or producer responsibility organization with a written warning regarding the requirements of this chapter. The written warning must inform a producer or producer responsibility organization that it must participate in an approved plan or otherwise come into compliance with the requirements of this chapter within 30 days of the notice. A civil action may only be brought against an underperforming producer or producer responsibility organization who remains in violation of the requirements of this chapter for at least 30 days after receiving the written warning.

NEW SECTION. **Sec.**  ADVISORY COMMITTEE. (1) Each producer and producer responsibility organization must establish an advisory committee composed of persons relevant to the program's covered products and Washington state residents. The department may require individual producers operating an individual program to establish an advisory committee that meets the requirements established under subsection (2) of this section.

(2) At a minimum, the advisory committee must include at least one person representing each of the following:

(a) Cities, including a representative located in east and west of the Cascade mountains from:

(i) Small and large cities; and

(ii) Cities located in urban and rural counties;

(b) Counties, including a representative located in east and west of the Cascade mountains from:

(i) Geographically small and large counties; and

(ii) Urban and rural counties;

(c) Indian tribes;

(d) Public sector recycling and solid waste industries;

(e) Private sector recycling and solid waste industries;

(f) Public or private reuse and waste prevention organizations;

(g) Recycled plastic and paper feedstock users;

(h) Public place recycling programs;

(i) Freshwater and marine litter programs;

(j) Environmental organizations;

(k) Consumer organizations; and

(l) Communities that bear disproportionately higher levels of adverse environmental impacts.

(3) If requested, each producer and producer responsibility organization must reimburse representatives of community groups, tribal, and nonprofit members for their expenses including, but not limited to, childcare, travel expenses, information technology supplies and services, and wage replacement that are related to participating on the advisory committee. Other members may be compensated for travel expenses on an as needed basis to ensure their ability to participate.

(4) Each producer responsibility organization must:

(a) Hold an advisory committee meeting at least once per year;

(b) Request and consider comments from its advisory committee prior to submission of annual reports, plan updates, and revisions to the department;

(c) Document all comments received and responsive answers to the department as an appendix submitted in annual reports, plan updates, and revisions; and

(d) Include a summary of advisory committee engagement and input in an annual report submitted to the department.

NEW SECTION. **Sec.**  (1) For the purposes of this section, "expanded polystyrene" means blown polystyrene and expanded and extruded foams that are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, foam molding, and extrusion-blow molding (extruded foam polystyrene).

(2) Beginning June 1, 2023, it is prohibited to sell or distribute into the state the following expanded polystyrene products:

(a) A portable container used for cold storage, except for expanded polystyrene containers used for drugs, medical devices, and biological materials as defined in the federal food, drug, and cosmetic act (21 U.S.C. Sec. 301 et seq.) or shipping perishable commodities from a wholesale or retail establishment;

(b) Food service products that include food containers, plates, clam shell-style containers, and hot and cold beverage cups. For the purposes of this subsection (2)(b), food service products do not include packaging for raw, uncooked, or butchered meat, fish, poultry, or seafood, vegetables, fruit, or egg cartons; and

(c) Void filling packaging products, which means loose fill packaging material, also referred to as packing peanuts.

(3) Any void filling loose fill packaging materials sold or distributed into the state must be compostable.

(4)(a) The department of ecology may adopt rules as necessary for the purpose of implementing, administering, and enforcing this section.

(b) The department of ecology must:

(i) Prepare and post on its website information regarding the prohibitions on the sale and distribution of covered products. The department of ecology may develop culturally appropriate and translated educational materials and resources for the state's diverse ethnic populations from existing materials used by local jurisdictions and other states.

(ii) Provide technical assistance and guidance to manufacturers of covered products, as requested.

(iii) Provide written notification and offer information and assistance to manufacturers and distributors that sell or offer to sell or distribute covered products who are in violation of this chapter. For the purposes of this section, written notification serves as notice of the violation. The department of ecology must issue at least two notices of violation by certified mail to a manufacturer or distributor prior to assessing a penalty.

(5)(a) A manufacturer of products in violation of this section is subject to a civil penalty not to exceed $250 for each violation in the case of a first offense. Manufacturers that are repeat violators are subject to a civil penalty not to exceed $1,000 for each repeat offense. Penalties collected under this section must be deposited in the model toxics control operating account created in RCW 70A.305.180.

(b) Penalties issued under this section are appealable to the pollution control hearings board established in chapter 43.21B RCW.

(6) A city, town, county, or municipal corporation may not implement a local ordinance restricting products specified under subsection (2) of this section unless the ordinance was filed by April 1, 2020, and enacted by June 1, 2020. An ordinance restricting covered products that was not enacted as of June 1, 2020, is preempted by this section.

(7) The definitions in section 2 of this act do not apply to this section.

NEW SECTION. **Sec.**  ACCOUNT. The responsible packaging management account is created in the custody of the state treasury. All receipts received by the department under this chapter must be deposited in the account. Only the director of the department or the director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. Expenditures from the account may be used by the department only for implementing, administering, and enforcing the requirements of this chapter.

**Sec.**  RCW 43.21B.110 and 2020 c 138 s 11 and 2020 c 20 s 1035 are each reenacted and amended to read as follows:

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

(a) Civil penalties imposed pursuant to RCW 18.104.155, section 21 of this act, 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070, 70A.515.060, section 4 of this act, 76.09.170, 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

(b) Orders issued pursuant to RCW 18.104.043, 18.104.060, 43.27A.190, section 21 of this act, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070, section 4 of this act, 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

(c) Except as provided in RCW 90.03.210(2), the issuance, modification, or termination of any permit, certificate, or license by the department or any air authority in the exercise of its jurisdiction, including the issuance or termination of a waste disposal permit, the denial of an application for a waste disposal permit, the modification of the conditions or the terms of a waste disposal permit, or a decision to approve or deny an application for a solid waste permit exemption under RCW 70A.205.260.

(d) Decisions of local health departments regarding the grant or denial of solid waste permits pursuant to chapter 70A.205 RCW.

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

(f) Decisions of the department regarding waste-derived fertilizer or micronutrient fertilizer under RCW 15.54.820, and decisions of the department regarding waste-derived soil amendments under RCW 70A.205.145.

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

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

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

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

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

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

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

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

(a) Hearings required by law to be conducted by the shorelines hearings board pursuant to chapter 90.58 RCW.

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

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

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

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

**Sec.**  RCW 43.21B.300 and 2020 c 20 s 1038 are each amended to read as follows:

(1) Any civil penalty provided in RCW 18.104.155, section 21 of this act, 70A.15.3160, 70A.205.280, 70A.300.090, 70A.20.050, section 4 of this act, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102 and chapter 70A.355 RCW shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the penalty from the department or the local air authority, describing the violation with reasonable particularity. For penalties issued by local air authorities, within thirty days after the notice is received, the person incurring the penalty may apply in writing to the authority for the remission or mitigation of the penalty. Upon receipt of the application, the authority may remit or mitigate the penalty upon whatever terms the authority in its discretion deems proper. The authority may ascertain the facts regarding all such applications in such reasonable manner and under such rules as it may deem proper and shall remit or mitigate the penalty only upon a demonstration of extraordinary circumstances such as the presence of information or factors not considered in setting the original penalty.

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

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

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

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

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

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

(5) All penalties recovered shall be paid into the state treasury and credited to the general fund except those penalties imposed pursuant to RCW 18.104.155, which shall be credited to the reclamation account as provided in RCW 18.104.155(7), RCW 70A.15.3160, the disposition of which shall be governed by that provision, RCW 70A.300.090, which shall be credited to the model toxics control operating account created in RCW 70A.305.180, RCW 90.56.330, which shall be credited to the coastal protection fund created by RCW 90.48.390, and RCW 70A.355.070, which shall be credited to the underground storage tank account created by RCW 70A.355.090.

**Sec.**  RCW 70A.205.005 and 2002 c 299 s 3 are each amended to read as follows:

The legislature finds:

(1) Continuing technological changes in methods of manufacture, packaging, and marketing of consumer products, together with the economic and population growth of this state, the rising affluence of its citizens, and its expanding industrial activity have created new and ever-mounting problems involving disposal of garbage, refuse, and solid waste materials resulting from domestic, agricultural, and industrial activities.

(2) Traditional methods of disposing of solid wastes in this state are no longer adequate to meet the ever-increasing problem. Improper methods and practices of handling and disposal of solid wastes pollute our land, air and water resources, blight our countryside, adversely affect land values, and damage the overall quality of our environment.

(3) Considerations of natural resource limitations, energy shortages, economics and the environment make necessary the development and implementation of solid waste recovery and/or recycling plans and programs.

(4) Waste reduction must become a fundamental strategy of solid waste management. It is therefore necessary to change manufacturing and purchasing practices and waste generation behaviors to reduce the amount of waste that becomes a governmental responsibility.

(5) Source separation of waste must become a fundamental strategy of solid waste management. Collection and handling strategies should have, as an ultimate goal, the source separation of all materials with resource value or environmental hazard.

(6)(a) It should be the goal of every person and business to minimize their production of wastes and to separate recyclable or hazardous materials from mixed waste.

(b) It is the responsibility of state, county, and city governments to provide for a waste management infrastructure to fully implement waste reduction and source separation strategies and to process and dispose of remaining wastes in a manner that is environmentally safe and economically sound. It is further the responsibility of state, county, and city governments to monitor the cost-effectiveness and environmental safety of combusting separated waste, processing mixed municipal solid waste, and recycling programs.

(c) It is the responsibility of county and city governments to assume primary responsibility for solid waste management and to develop and implement aggressive and effective waste reduction and source separation strategies.

(d) It is the responsibility of state government to ensure that local governments are providing adequate source reduction and separation opportunities and incentives to all, including persons in both rural and urban areas, and nonresidential waste generators such as commercial, industrial, and institutional entities, recognizing the need to provide flexibility to accommodate differing population densities, distances to and availability of recycling markets, and collection and disposal costs in each community; and to provide county and city governments with adequate technical resources to accomplish this responsibility.

(e) It is the responsibility of producers to provide for the responsible management of covered products.

(7) Environmental and economic considerations in solving the state's solid waste management problems requires strong consideration by local governments of regional solutions and intergovernmental cooperation.

(8) The following priorities for the collection, handling, and management of solid waste are necessary and should be followed in descending order as applicable:

(a) Waste reduction;

(b) Recycling, with source separation of recyclable materials as the preferred method;

(c) Energy recovery, incineration, or landfill of separated waste;

(d) Energy recovery, incineration, or landfill of mixed municipal solid wastes.

(9) It is the state's goal to achieve a fifty percent recycling rate by 2007.

(10) It is the state's goal that programs be established to eliminate residential or commercial yard debris in landfills by 2012 in those areas where alternatives to disposal are readily available and effective.

(11) Steps should be taken to make recycling at least as affordable and convenient to the ratepayer as mixed waste disposal.

(12) It is necessary to compile and maintain adequate data on the types and quantities of solid waste that are being generated and to monitor how the various types of solid waste are being managed.

(13) Vehicle batteries should be recycled and the disposal of vehicle batteries into landfills or incinerators should be discontinued.

(14) Excessive and nonrecyclable packaging of products should be avoided.

(15) Comprehensive education should be conducted throughout the state so that people are informed of the need to reduce, source separate, and recycle solid waste.

(16) All governmental entities in the state should set an example by implementing aggressive waste reduction and recycling programs at their workplaces and by purchasing products that are made from recycled materials and are recyclable.

(17) To ensure the safe and efficient operations of solid waste disposal facilities, it is necessary for operators and regulators of landfills and incinerators to receive training and certification.

(18) It is necessary to provide adequate funding to all levels of government so that successful waste reduction and recycling programs can be implemented.

(19) The development of stable and expanding markets for recyclable materials is critical to the long-term success of the state's recycling goals. Market development must be encouraged on a state, regional, and national basis to maximize its effectiveness. The state shall assume primary responsibility for the development of a multifaceted market development program to carry out the purposes of chapter 431, Laws of 1989.

(20) There is an imperative need to anticipate, plan for, and accomplish effective storage, control, recovery, and recycling of discarded tires and other problem wastes with the subsequent conservation of resources and energy.

**Sec.**  RCW 70A.205.010 and 2005 c 394 s 2 are each amended to read as follows:

The purpose of this chapter is to establish a comprehensive statewide program for solid waste handling, and solid waste recovery and/or recycling which will prevent land, air, and water pollution and conserve the natural, economic, and energy resources of this state. To this end it is the purpose of this chapter:

(1) To assign primary responsibility for adequate solid waste handling to local government, reserving to the state, however, those functions necessary to assure effective programs throughout the state, and reserving to producers responsibility for the management of covered products;

(2) To provide for adequate planning for solid waste handling by local government;

(3) To provide for the adoption and enforcement of basic minimum performance standards for solid waste handling, including that all sites where recyclable materials are generated and transported from shall provide a separate container for solid waste;

(4) To encourage the development and operation of waste recycling facilities needed to accomplish the management priority of waste recycling, to promote consistency in the requirements for such facilities throughout the state, and to ensure that recyclable materials diverted from the waste stream for recycling are routed to facilities in which recycling occurs;

(5) To provide technical and financial assistance to local governments in the planning, development, and conduct of solid waste handling programs;

(6) To encourage storage, proper disposal, and recycling of discarded vehicle tires and to stimulate private recycling programs throughout the state; and

(7) To encourage the development and operation of waste recycling facilities and activities needed to accomplish the management priority of waste recycling and to promote consistency in the permitting requirements for such facilities and activities throughout the state.

It is the intent of the legislature that local governments be encouraged to use the expertise of private industry and to contract with private industry to the fullest extent possible to carry out solid waste recovery and/or recycling programs.

**Sec.**  RCW 70A.205.115 and 2020 c 20 s 1171 are each amended to read as follows:

(1) Each local solid waste advisory committee shall conduct one or more meetings for the purpose of determining how local private recycling and solid waste collection businesses may participate in the development and implementation of programs to collect source separated materials from residences, and to process and market materials collected for recycling. The meetings shall include local private recycling businesses, private solid waste collection companies operating within the jurisdiction, and the local solid waste planning agencies. The meetings shall be held during the development of the waste reduction and recycling element or no later than one year prior to the date that a jurisdiction is required to submit the element under RCW 70A.205.075(2).

(2) The meeting requirement under subsection (1) of this section shall apply whenever a city or county develops or amends the waste reduction and recycling element required under this chapter. Jurisdictions having approved waste reduction and recycling elements or having initiated a process for the selection of a service provider as of May 21, 1991, do not have to comply with the requirements of subsection (1) of this section until the next revisions to the waste reduction and recycling element are made or required.

(3) After the waste reduction and recycling element is approved by the local legislative authority but before it is submitted to the department for approval, the local solid waste advisory committee shall hold at least one additional meeting to review the element.

(4) For the purpose of this section, "private recycling business" means any private for-profit or private not-for-profit business that engages in the processing and marketing of recyclable materials.

(5) Beginning January 1, 2026, a jurisdiction shall, at a minimum, incorporate by reference the plans of producer responsibility organizations established in the jurisdiction under chapter 70A. - - - RCW (the new chapter created in section 36 of this act) to fulfill this requirement.

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

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

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

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

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

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

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

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

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

(4) A program for surveillance and control.

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

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

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

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

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

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

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

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

(b) Source separation strategies, including:

(i) Programs for the collection of source separated materials from residences in urban and rural areas, including programs that are the responsibility of producer responsibility organizations in chapter 70A. - - - RCW (the new chapter created in section 36 of this act). ((~~In urban areas, these~~)) These programs shall include collection of source separated recyclable materials from single and multiple-family residences, unless the department approves an alternative program, according to the criteria in the planning guidelines. Such criteria shall include: Anticipated recovery rates and levels of public participation, availability of environmentally sound disposal capacity, access to markets for recyclable materials, unreasonable cost impacts on the ratepayer over the six-year planning period, utilization of environmentally sound waste reduction and recycling technologies, and other factors as appropriate. ((~~In rural areas, these~~)) These programs shall also include but not be limited to drop-off boxes, buy-back centers, or a combination of both, at each solid waste transfer, processing, or disposal site, or at locations convenient to the residents of the county. The drop-off boxes and buy-back centers may be owned or operated by public, nonprofit, or private persons. Beginning January 1, 2026, a jurisdiction may incorporate by reference the plans of producer responsibility organizations established in the jurisdiction under chapter 70A. - - - RCW (the new chapter created in section 36 of this act) to fulfill this requirement;

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

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

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

(c) Recycling strategies, including a description of markets for recyclables, a review of waste generation trends, a description of waste composition, a discussion and description of existing programs and any additional programs needed to assist public and private sector recycling, and an implementation schedule for the designation of specific materials to be collected for recycling, and for the provision of recycling collection services;

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

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

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

(10) A contamination reduction and outreach plan. The contamination reduction and outreach plan must address reducing contamination in recycling. Except for counties with a population of twenty-five thousand or fewer, by July 1, 2021, a contamination reduction and outreach plan must be included in each solid waste management plan by a plan amendment or included when revising or updating a solid waste management plan developed under this chapter. Jurisdictions may adopt the state's contamination reduction and outreach plan as developed under RCW 70A.205.070 in lieu of creating their own plan. Beginning January 1, 2026, a jurisdiction must incorporate by reference the plans of producer responsibility organizations established in the jurisdiction under chapter 70A. - - - RCW (the new chapter created in section 36 of this act) in lieu of creating their own plan. A recycling contamination reduction and outreach plan must include the following:

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

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

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

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

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

**Sec.**  RCW 70A.205.070 and 2020 c 20 s 1166 are each amended to read as follows:

(1) The department or the commission, as appropriate, shall provide to counties and cities technical assistance including, but not limited to, planning guidelines, in the preparation, review, and revision of solid waste management plans required by this chapter. Guidelines prepared under this section shall be consistent with the provisions of this chapter. Guidelines for the preparation of the waste reduction and recycling element of the comprehensive solid waste management plan shall be completed by the department by March 15, 1990. These guidelines shall provide recommendations to local government on materials to be considered for designation as recyclable materials. The state solid waste management plan prepared pursuant to RCW 70A.205.210 shall be consistent with these guidelines.

(2) The department shall be responsible for development and implementation of a comprehensive statewide public information program designed to encourage waste reduction, source separation, and recycling by the public. The department shall operate a toll free hotline to provide the public information on waste reduction and recycling.

(3) The department shall provide technical assistance to local governments in the development and dissemination of informational materials and related activities to assure recognition of unique local waste reduction and recycling programs.

(4)(a) The department must create and implement a statewide recycling contamination reduction and outreach plan based on best management practices for recycling, developed with stakeholder input by July 1, 2020. Jurisdictions may use the statewide plan in lieu of developing their own plan. Beginning January 1, 2026, a jurisdiction must incorporate by reference the plans of producer responsibility organizations established in the jurisdiction under chapter 70A. - - - RCW (the new chapter created in section 36 of this act) in lieu of creating their own plan.

(b) The department must provide technical assistance and create guidance to help local jurisdictions determine the extent of contamination in their regional recycling and to develop contamination reduction and outreach plans. Contamination means any material not included on the local jurisdiction's acceptance list.

(c) Contamination reduction education methods may include sharing community-wide messaging through newsletters, articles, mailers, social media, websites, or community events, informing recycling drop box customers about contamination, and improving signage.

(d) The department must cite the sources of information that it relied upon, including any peer-reviewed science, in the development of the best management practices for recycling under (a) of this subsection and the guidance developed under (b) of this subsection.

(5) Local governments shall make all materials and information developed with the assistance grants provided under RCW 70A.205.080 available to the department for potential use in other areas of the state.

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

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

~~(1)~~)):

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

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

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

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

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

((~~(6)~~)) (f) By reviewing producer reimbursement of regulated service providers and reviewing the financial information of private recycling businesses, consistent with section 13 of this act;

(g) By requiring certificate holders under this chapter ((~~81.77 RCW~~)) to use rate structures and billing systems consistent with the solid waste management priorities set forth under RCW 70A.205.005 and the minimum levels of solid waste collection and recycling services pursuant to local comprehensive solid waste management plans and with implementation of services designated by a producer responsibility organization in an approved plan to meet the requirements of chapter 70A. - - - RCW (the new chapter created in section 36 of this act). The commission may order consolidated billing and provide for reasonable and necessary expenses to be paid to the administering company if more than one certificate is granted in an area.

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

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

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

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

(b) All known and measurable costs related to implementation of the approved county or city comprehensive solid waste management plan or to implementation of services designated by a producer responsibility organization in an approved plan to meet the requirements of chapter 70A. - - - RCW (the new chapter created in section 36 of this act).

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

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

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

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

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

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

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

**Sec.**  RCW 81.80.470 and 2007 c 234 s 91 are each amended to read as follows:

(1) The collection or transportation of recyclable materials that are not covered products under chapter 70A. - - - RCW (the new chapter created in section 36 of this act) from a drop box or recycling buy‑back center, or collection or transportation of recyclable materials by or on behalf of a commercial or industrial generator of recyclable materials to a recycler for use or reclamation is subject to regulation under this chapter.

(2) Nothing in this chapter changes RCW 81.77.010(8), to allow any entity, other than a solid waste collection company authorized by the commission or an entity collecting solid waste from a city or town under chapter 35.21 or 35A.21 RCW, to collect solid waste that may incidentally contain recyclable materials.

NEW SECTION. **Sec.**  PREEMPTION STATEMENT. Nothing in this chapter preempts or limits the authority of any county, city, or other subdivision of this state to enact, adopt, implement, or enforce requirements related to paper or plastic packaging that are at least as stringent and expansive as the requirements established in this chapter.

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

NEW SECTION. **Sec.**  CODIFICATION DIRECTIVE. Sections 1 through 22, 34, and 35 of this act constitute a new chapter in Title 70A RCW.

**--- END ---**