
SUBSTITUTE HOUSE BILL 2049

State of Washington

68th Legislature

2024 Regular Session

By House Environment & Energy (originally sponsored by Representatives Berry, Doglio, Fitzgibbon, Ramel, Duerr, Mena, Ryu, Bateman, Slatter, Gregerson, Simmons, Peterson, Macri, Street, Alvarado, Fosse, Pollet, and Kloba)

READ FIRST TIME 01/23/24.

1 AN ACT Relating to improving Washington's solid waste management
2 outcomes; amending RCW 70A.245.010, 70A.245.020, 70A.245.030,
3 70A.245.040, 70A.245.090, 70A.245.100, 70A.245.120, 70A.245.060,
4 70A.205.005, 70A.205.010, 70A.205.045, 81.77.030, 81.77.160, and
5 81.77.185; reenacting and amending RCW 43.21B.110 and 43.21B.300;
6 adding a new section to chapter 70A.245 RCW; adding a new section to
7 chapter 81.77 RCW; adding new chapters to Title 70A RCW; repealing
8 RCW 70A.245.110; prescribing penalties; providing an effective date;
9 and providing an expiration date.

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

11 **Part One**

12 **Providing for Producer Responsibility in the Management of Packaging**
13 **and Paper Products**

14 NEW SECTION. **Sec. 101.** FINDINGS—INTENT. (1) The legislature
15 finds that, as of 2024, Washington's statewide waste recovery rate,
16 which seeks to preserve public health, safety, and welfare, and
17 conserve energy and natural resources, has been generally static
18 since 2011 and that Washington is not meeting the statewide goal of
19 50 percent recycling established in 1989.

1 (2) The legislature finds that packaging designs and materials
2 have changed and the way Washington's residents use, consume, and
3 manage materials when no longer wanted has also changed significantly
4 in recent years. These shifts contributed to unintended consequences,
5 such as the deterioration of ecosystems regionally and worldwide, as
6 well as increased levels of pollution and greenhouse gas emissions
7 that contribute to global climate change, and reductions in human
8 well-being, especially for the most vulnerable populations.

9 (3) The legislature finds that convenient and environmentally
10 sound extended producer responsibility programs that include the
11 collection, transportation, reuse, and recycling, and the proper end-
12 of-life management of unwanted products help protect Washington's
13 environment and the health of state residents. In general, the
14 state's waste management hierarchy establishes that products should
15 be managed in a manner where a priority is placed on waste reduction,
16 reuse, and recycling over energy recovery and landfill disposal.

17 (4) The legislature finds that many residents, particularly those
18 who live in rural areas and in multifamily residences, do not have
19 access to convenient or affordable curbside recycling, and must rely
20 on taking recyclables to drop box locations, and that extended
21 producer responsibility programs could make curbside recycling
22 available and affordable for most people in the state.

23 (5) The legislature also finds that the department of ecology was
24 directed, through an independent consultant, to study how plastic
25 packaging is managed in the state and assess various policy options.
26 The study recommended, in part: (a) An extended producer
27 responsibility policy for all consumer packaging and paper products
28 with a framework that makes producers responsible for achieving
29 specific environmental outcomes for the packaging and paper products
30 they supply into Washington state; and (b) postconsumer recycled
31 content requirements.

32 (6) In addition, the legislature finds extended producer
33 responsibility policies designed to cover all consumer packaging and
34 paper materials offer the potential for greater economies of scale
35 and operational efficiencies than could be achieved under a policy
36 applied only to a subset of materials.

37 (7) It is the intent of the legislature to require extended
38 producer responsibility programs for consumer packaging and paper
39 products be implemented in a manner that involves producers in
40 material management from design concept to end of life. These

1 programs incentivize innovation and research to develop new and more
2 efficient recycling and reuse technologies and minimize negative
3 environmental impacts of the packaging and paper products.

4 (8) It is intended that these programs be responsibly planned and
5 funded, so that covered products are handled and accounted for from
6 the point of collection through the final destination in a way that
7 minimizes negative impacts to the environment and minimizes risks to
8 public health and worker health and safety. It is also intended that
9 these programs build and expand on the existing waste and recycling
10 system's infrastructure and reliance on the authority of local
11 governments and the utilities and transportation commission in solid
12 waste management.

13 (9) It is the intent of the legislature that producers increase
14 the use of postconsumer recycled content in their products, to
15 achieve the goals in RCW 70A.520.010(2) and to create strong markets
16 for recycled materials and achieve environmental benefits.

17 (10) It is the intent of the legislature that, through design and
18 innovation, producers will reduce the use and negative climate impact
19 of consumer packaging and paper products and increase the use of
20 postconsumer recycled content.

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

32 NEW SECTION. **Sec. 102.** DEFINITIONS. The definitions in this
33 section apply throughout this chapter unless the context clearly
34 requires otherwise.

35 (1) "Alternative recycling process" means a recycling process
36 that occurs other than through purely mechanical means.

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

1 (3) "Compostable" means a product that is capable of undergoing
2 aerobic biological decomposition in a composting system, that results
3 in the material being broken down primarily into carbon dioxide,
4 water, inorganic compounds, and biomass, and is in compliance with
5 the requirements for a product labeled as compostable under chapter
6 70A.455 RCW.

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

10 (5) "Consumer" means a person who purchases or receives a covered
11 product and is the intended end user or recipient of the covered
12 product.

13 (6) "Contamination" means:

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

17 (b) The presence of materials in a given recycled material
18 delivered as a feedstock or commodity that are not specified or
19 accepted as a component of the feedstock or commodity.

20 (7) "Covered product" means packaging and paper products sold or
21 supplied to consumers for personal, noncommercial use.

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

23 (a) Annually sells, offers for sale, distributes, or imports into
24 Washington state less than one ton of covered products; or

25 (b) Has a global gross revenue of less than \$5,000,000 for the
26 most recent fiscal year of the organization.

27 (9) "Department" means the department of ecology.

28 (10) "Designated for collection" means the covered products that
29 are a material on the uniform statewide collection list for curbside
30 recycling programs or otherwise identified as suitable for recycling
31 collection in this state by the department as described in section
32 107 of this act.

33 (11) "Eliminate" or "elimination," with respect to source
34 reduction, means the removal of a plastic component from a covered
35 material.

36 (12) "Final disposition" means the point at which a covered
37 product:

38 (a) Becomes a reused material;

39 (b) Becomes a recycled material; or

1 (c) Is delivered to a disposal site, as defined in RCW
2 70A.205.015.

3 (13) "Government entity" means any:

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

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

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

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

14 (14) "Item" means a product in or with packaging.

15 (15) "Material category" means a group of covered products that
16 have similar properties such as chemical composition, shape, or other
17 characteristics.

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

21 (17)(a) "Packaging" means a material, substance, or object that
22 is:

23 (i) Used to protect, contain, transport, or serve an item;

24 (ii) Sold or supplied to consumers expressly for the purpose of
25 protecting, containing, transporting, or serving items;

26 (iii) Attached to an item or its container for the purpose of
27 marketing or communicating information about the item;

28 (iv) Supplied at the point of sale to facilitate the delivery of
29 the item; or

30 (v) Supplied to or purchased by consumers expressly for the
31 purpose of facilitating food or beverage consumption that is
32 ordinarily discarded by consumers after a single use or short-term
33 use.

34 (b) "Packaging" does not include:

35 (i) Materials intended to be used for the long-term storage or
36 protection of a durable product, that is intended to transport,
37 protect, or store the durable product on an ongoing basis, and that
38 can be expected to be usable for that purpose for a period of at
39 least five years;

1 (ii) For purposes of this chapter only, materials used to package
2 pesticide products regulated by the federal insecticide, fungicide,
3 and rodenticide act, 7 U.S.C. Sec. 136 et seq. that are in direct
4 contact with the regulated product. This exemption does not include
5 products regulated by the United States food and drug administration;

6 (iii) Products excluded temporarily under section 127 of this
7 act;

8 (iv) Liquefied petroleum gas containers that are designed to be
9 refilled or returned;

10 (v) (A) Packaging for drugs that are used for animal medicines
11 including parasiticide products for animals; and (B) packaging for
12 products intended for animals that are regulated as animal drugs,
13 biologics, parasiticides, medical devices, or diagnostics used to
14 treat, or administered to, animals under the federal food, drug, and
15 cosmetic act, 21 U.S.C. Sec. 301 et seq., the federal insecticide,
16 fungicide, and rodenticide act, 7 U.S.C. Sec. 136 et seq., or the
17 federal virus-serum-toxin act, 21 U.S.C. Sec. 151 et seq., as
18 amended;

19 (vi) Packaging for products that are regulated as a medical
20 device, dietary supplement, or drug by the United States food and
21 drug administration under the federal food, drug, and cosmetic act,
22 21 U.S.C. Sec. 321 et seq. or products that are regulated as a
23 biologic or vaccine by the federal food and drug administration under
24 the public health service act, 42 U.S.C. Sec. 201 et seq.;

25 (vii) Packaging related to containers of architectural paint that
26 has been collected by a stewardship organization under the program
27 established in chapter 70A.515 RCW;

28 (viii) Qualifying beverage containers subject to a refund value,
29 if applicable, and for which a distributor responsibility
30 organization or other entity responsible for implementing the program
31 has submitted and received approval from the department for a
32 coordination plan that describes how the qualifying beverage
33 containers will be managed in a manner that does not conflict with
34 plans implemented under this chapter.

35 (18) "Paper" means packaging or paper products made of paper
36 fiber, regardless of its cellulosic fiber source, which may include,
37 but is not limited to: Wood, wheat, rice, cotton, bananas,
38 eucalyptus, bamboo, hemp, and sugar cane or bagasse.

39 (19) "Paper product" means paper sold or supplied, including
40 flyers, brochures, booklets, catalogs, magazines, copy paper,

1 printing paper, and all other paper materials except for: (a) Bound
2 books; (b) conservation grade and archival grade paper; (c)
3 newspapers; (d) paper designed for use in building construction; and
4 (e) paper products that, by any common and foreseeable use, could
5 reasonably be anticipated to become unsafe or unsanitary to handle.

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

10 (21) "Postconsumer recycled content" has the same meaning as
11 defined in section 201 of this act.

12 (22)(a) "Producer" means the following person responsible for
13 compliance with requirements under this chapter for a covered product
14 sold, offered for sale, or distributed in or into this state:

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

17 (A) If the item is sold in or with packaging under the brand of
18 the item manufacturer or is sold in packaging that lacks
19 identification of a brand, the producer is the person that
20 manufactures the item;

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

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

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

33 (E) If there is no person described in (a)(i)(A) through (D) of
34 this subsection, the producer is the person that first distributes
35 the item in or into this state.

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

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

1 (B) For packaging used to ship the item to a consumer, the
2 producer of the packaging is the person that packages the item to be
3 shipped to the consumer.

4 (iii) For packaging that is a covered product and is not included
5 in (a)(i) and (ii) of this subsection, the producer of the packaging
6 is the person that first distributes the item in or into this state.

7 (iv) For paper products that are magazines, catalogs, telephone
8 directories, or similar publications, the producer is the publisher.

9 (v) For paper products not described in (a)(iv) of this
10 subsection:

11 (A) If the paper product is sold under the manufacturer's own
12 brand, the producer is the person that manufactures the paper
13 product;

14 (B) If there is no person to which (a)(v)(A) of this subsection
15 applies, the producer is the person that is the owner or licensee of
16 a brand or trademark under which the paper product is used in a
17 commercial enterprise, sold, offered for sale, or distributed in or
18 into this state, whether or not the trademark is registered in this
19 state;

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

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

28 (E) If there is no person described in (a)(v)(A) through (D) of
29 this subsection, the producer is the person that first distributes
30 the paper product in or into this state.

31 (vi) A person is the "producer" of a covered product sold,
32 offered for sale, or distributed in or into this state, as defined in
33 (a)(i) through (v) of this subsection, except:

34 (A) Where another person has mutually signed an agreement with a
35 producer as defined in (a)(i) through (v) of this subsection that
36 contractually assigns responsibility to the person as the producer,
37 and the person has joined a registered producer responsibility
38 organization as the responsible producer for that covered product
39 under this chapter. In the event that another person is assigned
40 responsibility as the producer under this subsection, the producer

1 under (a)(i) through (v) of this subsection must provide written
2 certification of that contractual agreement to the producer
3 responsibility organization; and

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

8 (b) "Producer" does not include:

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

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

13 (iii) De minimis producers.

14 (23) "Producer responsibility organization" means:

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

19 (b) Until January 15, 2027, an organization that has applied for
20 a tax exemption under 26 U.S.C. Sec. 501(c)(3) of the federal
21 internal revenue code and is designated by a producer or group of
22 producers to develop and carry out the activities required of
23 producers under this chapter;

24 (c) A producer that registers with the department as a producer
25 responsibility organization; or

26 (d) An organization as defined by rule by the department.

27 (24) "Program" means the activities conducted to implement an
28 approved producer responsibility organization plan.

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

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

39 (26) "Recyclable" means a covered product that is collected,
40 separated, and reprocessed into a recycled material, and that does

1 not contain harmful chemical, physical, biological, or radiological
2 substances that will pose a threat to human health or the environment
3 for its intended or likely manner of use.

4 (27) (a) "Recycled material" means material derived from covered
5 products that is reprocessed into products or delivered as feedstocks
6 or commodities to a responsible end market for use in the production
7 of new products whether for the original or another purpose.

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

11 (28) "Responsible end market" means a materials market in which
12 the recycling of materials and the disposal of materials that cause
13 contamination is conducted in a way that:

14 (a) Minimizes negative impacts to the environment; and

15 (b) Minimizes risks to public health and worker health and
16 safety.

17 (29) "Responsible management" means the handling, tracking, and
18 disposition of covered products from the point of collection through
19 the final destination of the collected material in a way that
20 minimizes negative impacts to the environment and minimizes risks to
21 public health and worker health and safety.

22 (30) "Responsible producer" means a producer that is not a de
23 minimis producer.

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

28 (32) "Reusable" means:

29 (a) For returnable packaging that is returned to a producer for
30 reuse, the packaging satisfies all of the following:

31 (i) Explicitly designed and marketed to be utilized multiple
32 times for the same product or for another purposeful packaging use in
33 a supply chain without undergoing a change in form;

34 (ii) Designed for durability to function properly in its original
35 condition for multiple cycles of reuse;

36 (iii) Supported by adequate infrastructure, where needed, to
37 ensure the packaging can be conveniently and safely reused for
38 multiple cycles; and

39 (iv) Repeatedly recovered, inspected, and reissued into the
40 supply chain for reuse for multiple cycles.

1 (b) For refillable packaging that is refilled by a consumer, the
2 packaging satisfies all of the following:

3 (i) Explicitly designed and marketed to be utilized multiple
4 times for the same product;

5 (ii) Designed for durability to function properly in its original
6 condition for utilization in multiple cycles of refill; and

7 (iii) Supported by adequate and convenient availability of
8 services, infrastructure, or at-home refill systems to ensure the
9 packaging can be conveniently and safely refilled by the consumer
10 multiple times.

11 (33) "Socially just management" means practices that:

12 (a) Provide equitable access to and benefits from services,
13 regardless of race, income, socioeconomic status, health, and other
14 population vulnerability or sensitivity characteristics;

15 (b) Prevent or, if not preventable, minimize environmental harms
16 or risks; and

17 (c) Prevent or, if not preventable, minimize and mitigate
18 negative impacts to overburdened communities or vulnerable
19 populations identified by the department.

20 (34) "Vulnerable populations" has the same meaning as defined in
21 RCW 70A.02.010.

22 NEW SECTION. **Sec. 103.** PRODUCER AND PRODUCER RESPONSIBILITY
23 ORGANIZATION DUTIES. (1)(a) Beginning March 1, 2025, each producer
24 that offers for sale, sells, or distributes in or into Washington a
25 covered product must join a producer responsibility organization that
26 is registered with the department or register with the department as
27 a producer responsibility organization. Beginning October 1, 2025, a
28 producer that is not a member of a registered producer responsibility
29 organization or registered as a producer responsibility organization
30 may not sell or supply covered products in or into Washington.

31 (b) Until the conclusion of the initial plan implementation
32 period as provided under section 108 of this act, the department must
33 only accept the registration of a single producer responsibility
34 organization, other than any producers that register individually as
35 a producer responsibility organization. Until the conclusion of the
36 initial plan implementation period, producers of covered products
37 must either join the producer responsibility organization or register
38 individually as a producer responsibility organization for purposes
39 of compliance under this section. If registrations for more than one

1 producer responsibility organization are submitted to the department
2 by March 1, 2025, not counting registrations submitted by individual
3 producers, the department must determine which proposed producer
4 responsibility organization can most effectively implement this
5 chapter.

6 (c) If more than one producer responsibility organization is
7 registered with the department, the producer responsibility
8 organizations must submit a coordination plan to the department for
9 approval. If requested by the producer responsibility organizations,
10 the department may serve as a coordinating body or oversee
11 coordination of producer responsibility organization plans. The
12 requirements of this subsection apply to the initial plan period
13 consisting of a single producer responsibility organization and any
14 producers registering individually, and subsequent plan periods where
15 multiple producer responsibility organizations and individual
16 producers may register with the department.

17 (2) A producer responsibility organization that meets the
18 definition under section 102 of this act that implements or proposes
19 to implement a plan under this chapter may not include on its board
20 of directors, or otherwise be governed by, representatives or
21 affiliates of any public or private entities that submit bids to
22 perform work for the producer responsibility organization or that
23 contract with the producer responsibility organization.

24 (3) By March 1, 2025, and each March 1st thereafter, each
25 producer, through a submission by a producer responsibility
26 organization, must register with the department. A registration
27 submission by a producer responsibility organization must include the
28 following:

29 (a) (i) A list of all their member producers and their brands of
30 covered products, and members of the board of directors;

31 (ii) If there are changes to the list of member producers and
32 brands or members of the board of directors by the end of a given
33 quarter, a producer responsibility organization must submit an
34 updated list to the department within 30 days of the end of that
35 quarter.

36 (b) Until a producer responsibility organization begins to submit
37 annual reports, as specified under section 119 or 209 of this act,
38 the following data for the prior calendar year:

39 (i) The weight, by material category, of covered products
40 supplied or sold into the state to consumers. The weight of any

1 covered products that are reusable or compostable must each be
2 reported separately from the weight of other types of covered
3 products;

4 (ii) A description of how the quantities of packaging and paper
5 products sold or supplied to consumers that are considered covered
6 products under this chapter are distinguished from uses that are not
7 considered covered products under this chapter; and

8 (iii) A list of all member producers and their brands of
9 postconsumer recycled content products required to meet the
10 postconsumer recycled content requirements of chapter 70A.--- RCW
11 (the new chapter created in section 502 of this act).

12 (4) A producer may submit national or regional data allocated on
13 a per capita basis for Washington to approximate the information
14 required in subsection (3) of this section if state-level data is not
15 available or feasible to generate.

16 (5) By May 1, 2025, and every May 1st thereafter, a producer
17 responsibility organization must submit the packaging financial
18 assistance fee to the department, as determined in section 112(7) of
19 this act.

20 (6) By May 1, 2026, and every May 1st thereafter, a producer
21 responsibility organization must submit an annual payment to the
22 department for the projected annual costs of the department to
23 conduct oversight, administration, and enforcement for the next
24 fiscal year, as determined by the department in section 104 of this
25 act, to fund all costs to implement, administer, and enforce this
26 chapter and chapter 70A.--- RCW (the new chapter created in section
27 502 of this act), including rule making but excluding the financial
28 assistance program created in section 112(7) of this act.

29 (7) By October 1, 2027, or 12 months after the completion of the
30 statewide needs assessment under section 105 of this act, whichever
31 is later, a producer responsibility organization must submit a plan
32 to the department for approval consistent with the requirements of
33 this chapter.

34 (a) A producer responsibility organization registered with the
35 department as of July 1, 2027, must:

36 (i) Implement its approved plan by January 1, 2029, or within six
37 months of plan approval, whichever is later;

38 (ii) Submit the annual postconsumer recycled content report to
39 the department in July of each year beginning in 2027 for the prior
40 calendar year required in section 209 of this act; and

1 (iii) Submit an annual report for the prior calendar year to the
2 department consistent with section 119 of this act by July 1, 2030,
3 and each July 1st thereafter.

4 (b) A producer responsibility organization registering for the
5 first time with the department after July 1, 2027, must:

6 (i) Submit the list of producers, brands, board members, data,
7 and department payment as required in subsections (3) and (4) of this
8 section;

9 (ii) Submit a plan to the department for approval, informed by a
10 stakeholder consultation process and consistent with the requirements
11 of this chapter, within one year of registration;

12 (iii) Submit a new or revised plan within 60 days after receipt
13 of a letter of disapproval from the department, if applicable;

14 (iv) Implement its plan as approved by the department within six
15 months of approval;

16 (v) Submit the annual postconsumer recycled content report for
17 the prior calendar year required in section 209 of this act; and

18 (vi) Submit an annual report for the prior calendar year to the
19 department consistent with section 119 of this act by July 1st,
20 beginning the first year after plan implementation.

21 (8) Nothing in this chapter requires any individual producer to
22 redesign covered products to reduce waste or to be reusable,
23 recyclable, or compostable, requires any individual covered product
24 to be reusable, recyclable, or compostable, or authorizes the
25 department or a producer responsibility organization to require any
26 individual covered product to be reusable, recyclable, or
27 compostable.

28 (9) Nothing in this chapter or chapter 70A.--- RCW (the new
29 chapter created in section 502 of this act) authorizes the department
30 or a producer responsibility organization to impose any requirement
31 including, but not limited to, a recycled content requirement, in
32 direct conflict with a federal law or regulation, including but not
33 limited to:

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

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

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

1 (d) Requirements for microbial contamination, structural
2 integrity, or safety of packaging, where no viable recyclable or
3 compostable packaging that can meet the requirements exists, pursuant
4 to:

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

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

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

10 (iv) The federal poultry products inspection act (21 U.S.C. Sec.
11 451, et seq.);

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

14 (vi) The federal egg products inspection act (21 U.S.C. Sec.
15 1031, et seq.).

16 (10) Nothing in this chapter is intended to grant producers and
17 other entities participating in the distribution chain of covered
18 products under this chapter immunity from federal or state antitrust
19 liability. A producer, producer responsibility organization, or other
20 entity in the distribution chain of covered products is not exempted
21 from state or federal laws prohibiting actions that are considered to
22 be a restraint of trade, a conspiracy, or are otherwise deemed
23 unlawful activities in violation of federal or state antitrust laws.

24 NEW SECTION. **Sec. 104.** DEPARTMENT'S DUTIES. (1) The department
25 must implement, administer, and enforce this chapter. The
26 department's implementation, administration, and enforcement duties
27 under this chapter, including the requirements of this section, are
28 supplemented by the provisions of chapter 70A.--- RCW (the new
29 chapter created in section 502 of this act).

30 (2)(a) By January 31, 2026, and every January 31st thereafter,
31 the department must:

32 (i) Prepare a workload analysis that identifies the projected
33 annual costs to implement, administer, and enforce this chapter and
34 chapter 70A.--- RCW (the new chapter created in section 502 of this
35 act), including rule making, in the next fiscal year;

36 (ii) Determine a total annual fee payment to be paid by each
37 producer responsibility organization that is adequate to cover, but
38 not exceed, the costs identified in (a)(i) of this subsection and the
39 costs of the grant program specified in section 112(7) of this act;

1 (iii) Until rules are adopted under (a)(iv) of this subsection,
2 issue a general order to all registered producer responsibility
3 organizations. The department must equitably determine fee amounts
4 for producer responsibility organizations;

5 (iv) By 2027, adopt rules to equitably determine annual fee
6 payments by producer responsibility organizations. Once these rules
7 are adopted, the general order issued under (a)(iii) of this
8 subsection is no longer effective; and

9 (v) Send notice to producer responsibility organizations of fee
10 amounts due consistent with either the general order issued under
11 (a)(iii) of this subsection or rules adopted under (a)(iv) of this
12 subsection.

13 (b) The workload analysis prepared in January 2026 must include
14 contractor costs identified in section 105 of this act. This portion
15 of the fee amounts paid under the general order must be deposited in
16 the account that paid for these costs.

17 (c) The department must:

18 (i) Apply any remaining annual payment funds from the current
19 year to the annual payment for the coming fiscal year, if the
20 collected annual payment exceeds the costs identified under (a)(ii)
21 of this subsection for a given year; and

22 (ii) Increase annual payments for the coming fiscal year to cover
23 the costs identified under (a)(ii) of this subsection, if the
24 collected annual payment was less than the amount required to cover
25 those costs for a given year.

26 (3)(a) The department must review new, updated, and revised plans
27 submitted by a producer responsibility organization as required in
28 section 108 of this act. The department must:

29 (i) Make new, updated, and revised plans available for public
30 review and comment for at least 30 days prior to the department's
31 decision;

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

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

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

1 (B) Reasons for not approving a plan. The producer responsibility
2 organization must submit a new or revised plan within 60 days after
3 receipt of the disapproval letter. If a new or revised plan submitted
4 by a producer responsibility organization does not comply, the
5 department may use the enforcement powers specified in section 123 of
6 this act.

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

10 (4) The department must review annual reports submitted by a
11 producer responsibility organization as required in section 119 of
12 this act and under chapter 70A.--- RCW (the new chapter created in
13 section 502 of this act). The department must:

14 (a) Make annual reports available for public review and comment
15 for at least 30 days upon the receipt of the annual report by the
16 department;

17 (b) Review within 120 days of receipt of a complete annual
18 report;

19 (c) Make a determination as to whether or not an annual report
20 meets the requirements of this chapter, taking into consideration
21 comments received under (a) of this subsection, and notify the
22 producer responsibility organization of the:

23 (i) Determination of approval of the annual report; or

24 (ii) Reasons for not approving the annual report. The producer
25 responsibility organization must submit a revised annual report
26 within 60 days after receipt of the disapproval letter;

27 (d) Notify a producer responsibility organization if the annual
28 report demonstrates that the performance rates will not be achieved
29 or the plan fails to achieve other significant requirements under
30 this chapter.

31 (5) The department must adopt rules as necessary to implement,
32 administer, and enforce this chapter.

33 (6) Except where otherwise provided in this chapter, the
34 department shall seek to adopt rules that are harmonized with the
35 regulatory standards, exemptions, reporting obligations, and other
36 compliance requirements of other states that:

37 (a) Have adopted producer responsibility programs similar to the
38 program established in this chapter; and

1 (b)(i) Are home to producers that supply, or have the potential
2 to supply, significant quantities of covered products to Washington
3 markets; or

4 (ii) To which Washington supplies, or has the potential to
5 supply, significant quantities of covered products.

6 (7) The department must maintain a public website that:

7 (a) Lists each registered producer responsibility organization
8 along with its member producers and their covered products that are
9 included under the producer responsibility organization's plan;

10 (b) Identifies any noncompliant producers; and

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

13 (8) The department must administer the grant program specified in
14 section 112(7) of this act.

15 (9) The department must create a model comprehensive solid waste
16 plan amendment by January 1, 2028, for use by jurisdictions in lieu
17 of updating, amending, or revising a plan consistent with the
18 requirements of RCW 70A.205.045(7)(b)(i).

19 NEW SECTION. **Sec. 105.** STATEWIDE NEEDS ASSESSMENT. (1) To
20 inform program implementation, the department must conduct a
21 statewide needs assessment that must be:

22 (a) Carried out by a third-party consultant selected by the
23 department; and

24 (b) Funded through payments or reimbursements collected from
25 producer responsibility organizations.

26 (2) The statewide needs assessment must:

27 (a) Use the recycling rates from the department's *December 2023*
28 *Washington Recycling, Reuse, and Source Reduction Target Study and*
29 *Community Input Process*;

30 (b) Use information and recommendations from the department's
31 2020 plastic packaging study reports;

32 (c) Use the department's uniform statewide collection lists for
33 covered products established under section 107 of this act;

34 (d) Evaluate what services related to the requirements of this
35 chapter are currently being delivered in each county and city
36 planning under chapter 70A.205 RCW, and what the costs are for those
37 existing services;

38 (e) Evaluate what new or expanded services and infrastructure are
39 needed in each county and city planning under chapter 70A.205 RCW to

1 meet the requirements of this chapter, including the convenience
2 standards established under section 113 of this act and what the
3 anticipated costs are for those additional services and
4 infrastructure;

5 (f) Reference local solid waste management plans;

6 (g) Evaluate what additional actions and investments are needed
7 to meet the requirements of this chapter;

8 (h) Evaluate how the state's recycling system can be managed in a
9 socially just manner. This evaluation must include meaningful
10 consultation with overburdened communities and vulnerable populations
11 and include an assessment and recommendations on the following:

12 (i) Material recovery facility worker conditions, wages, and
13 benefits;

14 (ii) The availability of opportunities in the recycling system
15 for women and minority individuals;

16 (iii) Activities that disproportionately negatively impact any
17 community and in particular overburdened communities and vulnerable
18 populations; and

19 (iv) The sufficiency of recycling education and outreach programs
20 relative to desired socially just management outcomes;

21 (i) Compile information from available data sources on the
22 presence of toxic substances in covered products and their potential
23 negative impacts on reuse, recycling, and composting systems. The
24 information compiled is intended to inform the development of eco-
25 modulation factors by a producer responsibility organization that
26 incentivize the reduction of toxic substances that have potentially
27 negative impacts when covered products are managed through reuse,
28 recycling, and home and commercial composting systems;

29 (j) Evaluate the extent to which covered products contribute to
30 litter and marine debris for the purpose of informing how a producer
31 responsibility organization implementing a plan can support litter
32 and marine debris prevention as it relates to activities required
33 under this chapter. The assessment should draw on available data,
34 assess gaps, and identify strategies for improving prevention and
35 cleanup of litter and marine debris from covered products;

36 (k) Evaluate the actions and investments that will be needed by
37 jurisdictions planning under chapter 70A.205 RCW to update their
38 plans to implement this act; and

39 (l) Any other information the department determines necessary to
40 complete the needs assessment.

1 (3) The first statewide needs assessment must be completed by
2 October 1, 2026, and must be consistent with the following
3 requirements:

4 (a) The final scope of the statewide needs assessment must be
5 determined in consultation with a producer responsibility
6 organization that is registered with the department by June 30, 2025,
7 the advisory council established in section 120 of this act, and the
8 utilities and transportation commission.

9 (b) Prior to completion of the statewide needs assessment:

10 (i) The utilities and transportation commission, the advisory
11 council established in section 120 of this act, and registered
12 producer responsibility organizations must have the opportunity to
13 review and comment on the draft statewide needs assessment;

14 (ii) Each county and city planning under chapter 70A.205 RCW must
15 have an opportunity to review and comment on the portions of the
16 draft statewide needs assessment relevant to the jurisdiction.

17 (4)(a) In consultation with the advisory council established in
18 section 120 of this act, the utilities and transportation commission,
19 and registered producer responsibility organizations, the department
20 may update the statewide needs assessment no sooner than every five
21 years to inform the development of producer responsibility
22 organization plans and performance rates. Any updates must include an
23 evaluation of public place recycling needs at locations that are
24 significant sources of covered product waste and that are additional
25 to those locations identified under section 113 of this act. These
26 additional locations may not include public places and official
27 gatherings at which a local government does not provide solid waste
28 services or retail establishments.

29 (b) The scope of a needs assessment or needs assessment update
30 may be adjusted to modify or omit study elements described under
31 subsection (3) of this section, after consultation with the advisory
32 council, the utilities and transportation commission, and any
33 producer responsibility organization by January 15th of the year in
34 which the statewide needs assessment update is to be conducted.

35 NEW SECTION. **Sec. 106.** PLAN PARTICIPATION OBLIGATION—
36 STAKEHOLDER CONSULTATION FOR PLAN. (1) Each producer of covered
37 products must participate in, implement, and fund a producer
38 responsibility organization plan approved by the department,
39 consistent with the timelines established in sections 103 and 108 of

1 this act, and in accordance with the funding requirements established
2 in section 112 of this act.

3 (2) A producer responsibility organization that is registered
4 with the department must develop and maintain a public website with
5 enhanced language access informing the public of plan implementation
6 details, including collection services and locations for each type of
7 covered product, and a current list of all member producers and
8 brands of covered products participating in the plan.

9 (3) Prior to submitting a new, updated, or revised plan to the
10 department, a producer responsibility organization must conduct a
11 consultation process to directly and actively involve stakeholders in
12 the development of key plan elements. The producer responsibility
13 organization, through the consultation process, must solicit and
14 respond to input and recommendations from the advisory council
15 established in section 120 of this act, the utilities and
16 transportation commission, each jurisdiction planning under chapter
17 70A.205 RCW, and other stakeholders. The consultation process
18 required in advance of the submission of a plan to the department is
19 in addition to the department-led public comment process specified in
20 section 104(4) of this act. At a minimum, the consultation process
21 must include:

22 (a) A public comment period for no less than 60 days prior to its
23 submission to the department;

24 (b) Documentation of all comments received and a summary of
25 responses provided by the producer responsibility organization for
26 purposes of a stakeholder consultation report to be included with the
27 submission of a plan to the department. The stakeholder consultation
28 report must also describe each forum in which comments or input was
29 received and how it was addressed in the plan; and

30 (c) An individualized consultation by the producer responsibility
31 organization, after the completion of the needs assessment in section
32 105 of this act, with each county and city planning under chapter
33 70A.205 RCW, regarding the portions of the plan relevant to that city
34 or county.

35 (4) Each producer responsibility organization must coordinate its
36 plan development and implementation with:

37 (a) Other producer responsibility organizations in the state; and

38 (b) Organizations formed to implement the requirements of
39 chapters 70A.500, 70A.505, 70A.510, 70A.515, 70A.555, and 69.48 RCW.

1 NEW SECTION. **Sec. 107.** UNIFORM STATEWIDE RECYCLING COLLECTION
2 LISTS-PROGRAM PLAN CONTENTS. (1) (a) By October 1, 2025, and no later
3 than 30 days after approving a new, updated, or revised producer
4 responsibility organization plan, the department must identify the
5 materials and methods for uniform statewide recycling collection of
6 covered products. In doing so, the department must distinguish
7 between:

8 (i) Materials determined to be suitable for residential curbside
9 collection;

10 (ii) Materials for drop-off collection; and

11 (iii) Materials for alternative collection only.

12 (b) In determining whether a material is suitable for curbside,
13 drop-off, or alternative collection, the department shall consider:

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

16 (ii) Environmental health and safety considerations;

17 (iii) The anticipated yield loss for the material during the
18 recycling process;

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

21 (v) The amount of the material available;

22 (vi) The practicalities of sorting and storing the material;

23 (vii) Contamination;

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

26 (ix) Economic factors;

27 (x) Environmental factors from a life-cycle perspective; and

28 (xi) The policy expressed in RCW 70A.205.010.

29 (c) A covered product that is not identified as suitable for
30 residential curbside collection may be temporarily collected as part
31 of a curbside recycling program and qualify for reimbursement if:

32 (i) The covered product is collected as part of a pilot program
33 agreed to by the service provider and the producer responsibility
34 organization;

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

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

37 (2) A producer responsibility organization may propose a covered
38 product for addition to the list of materials for uniform statewide
39 recycling collection as part of a producer responsibility
40 organization plan. In considering the addition of a covered product

1 proposed by a producer responsibility organization, the department
2 shall consider the same criteria as those established under
3 subsection (1)(b) of this section.

4 (3) The department must by rule determine the plan contents
5 required to be included in a producer responsibility organization
6 plan. Plan contents must address all aspects of responsibilities
7 assigned to producers and producer responsibility organizations in
8 this chapter and how the producer responsibility organization will
9 carry out activities to fulfill such responsibilities and must
10 provide information about services and other relevant details for
11 each county and city planning under chapter 70A.205 RCW.

12 NEW SECTION. **Sec. 108.** PLAN APPROVAL, UPDATES, AND REVISIONS.

13 (1)(a) The initial plan due to be submitted under section 103(7) of
14 this act, and updated plans, must address five calendar years.

15 (b) A producer responsibility organization must submit an updated
16 plan to the department, one year prior to the expiration of any plan.

17 (c) If the performance rates set in a producer responsibility
18 organization plan have not been met as of the time of plan update,
19 the producer responsibility organization must arrange for an
20 independent evaluation to be conducted of the producer responsibility
21 organization's efforts to implement the plan. The evaluation must
22 provide information for the producer responsibility organization to
23 use to target and improve program outcomes relative to the approved
24 performance rates. The evaluation must be submitted to the department
25 with an updated plan.

26 (d) A producer responsibility organization must carry out the
27 consultation process established in section 106 of this act prior to
28 the submission of each plan and plan update. The consultation process
29 established in section 106 of this act is not required to be carried
30 out by a producer responsibility organization that is submitting a
31 revised plan:

32 (i) In response to an order from the department; or

33 (ii) Subsequent to a letter disapproving of a plan submission by
34 the producer responsibility organization and for which the original
35 plan submitted by the producer responsibility organization had been
36 subject to the consultation process required in section 106 of this
37 act.

38 (2)(a) A producer responsibility organization may choose to
39 update its plan if significant changes have occurred.

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

4 (i) The program and activities to implement the plan fail to
5 achieve the performance rates set in producer responsibility
6 organization plans as described in section 111 of this act or
7 otherwise fail to achieve significant requirements under this
8 chapter;

9 (ii) Additional producer responsibility organizations register
10 with the department or receive approval from the department to begin
11 implementing a plan; or

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

14 NEW SECTION. **Sec. 109.** CONTINGENCY PLAN. (1) A producer
15 responsibility organization must submit to the department a
16 contingency plan demonstrating how the activities in the plan will
17 continue to be carried out by some other entity, if needed, such as
18 an escrow company:

19 (a) Until such time as a new plan is submitted and approved by
20 the department;

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

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

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

26 (2) The contingency plan required in this section must be
27 submitted to the department as a component of the producer
28 responsibility organization's initial plan submitted to the
29 department under section 103(7) of this act. The department may
30 require a producer responsibility organization to update the
31 contingency plan required under this section coincident with any plan
32 update under section 108 of this act.

33 (3) The department must follow the same process and timelines for
34 reviewing and approving the contingency plan as it follows for
35 reviewing and approving the producer responsibility organization's
36 plan under section 108 of this act.

37 NEW SECTION. **Sec. 110.** COLLECTION AND MANAGEMENT. (1) Producer
38 responsibility organizations, government entities, and service

1 providers implementing the program must manage covered products in a
2 manner consistent with the state's solid waste management hierarchy
3 established in RCW 70A.205.005.

4 (2) Covered products collected under this chapter must be
5 responsibly managed at facilities operating with human health and
6 environmental protection standards that are broadly equivalent to or
7 better than those required in the United States and other countries
8 that are members of the organization for economic cooperation and
9 development.

10 (3) (a) Owners or operators of a material recovery facility that
11 manages covered products under this chapter must ensure that workers
12 at the facility are paid not less than the prevailing rate of wage
13 for the same trade or occupation, as defined by the department of
14 labor and industries. "Prevailing rate of wage" includes the hourly
15 wage, usual benefits, and overtime paid in the locality as defined in
16 RCW 39.12.010.

17 (b) Counties, cities, and companies that hold an applicable
18 certificate issued by the utilities and transportation commission may
19 only deliver or arrange for the delivery of covered products
20 collected from residences as recyclable material to a material
21 recovery facility that meets the requirements of this section.

22 (4) Producer responsibility organizations implementing a plan
23 must include measures to:

24 (a) Track, verify, and publicly report that the responsible
25 management of covered products collected under this chapter is
26 maintained and that recycled materials are delivered to a responsible
27 end market;

28 (b) Promote and facilitate reuse of covered products;

29 (c) Meet the necessary quality standards for recycled materials
30 so that covered products collected under this chapter may be used to
31 manufacture new products;

32 (d) Prioritize agreements with material recovery facilities
33 handling covered products regarding long-term contracts and other
34 purchase agreements based on fair market pricing for commodities of
35 comparable quality;

36 (e) (i) Document the locations of all material recovery facilities
37 and other processing facilities used to meet the requirements of this
38 chapter, whether within Washington, elsewhere in North America, or
39 outside of North America; and

1 (ii) Describe whether the material recovery facilities or other
2 processing facilities were preexisting, planned, or under
3 construction as of plan approval.

4 (5) (a) The department must, in consultation with representatives
5 from overburdened communities, the advisory council established in
6 section 120 of this act, service providers, municipalities, state
7 agencies, alternative recycling technology providers, and others,
8 approve or deny a proposal by a producer responsibility organization
9 to count towards recycling performance rates materials sent to
10 facilities that use an alternative recycling process for conversion
11 of plastic covered products for the purpose of producing recycled
12 material.

13 (b) The department must establish a process by which a producer
14 responsibility organization may propose to count towards recycling
15 performance rates materials sent to a facility that uses an
16 alternative recycling process.

17 (c) The department may only approve the producer responsibility
18 organization's proposal to count towards recycling performance rates
19 the materials sent to a facility that uses an alternative recycling
20 process if the department determines that the alternative process
21 meets all of the following criteria:

22 (i) Does not include combustion, fuel production, and other forms
23 of energy recovery of plastic covered products in processing or
24 disposal; and

25 (ii) Provides equal or better protection for the environment and
26 human health relative to recycling processes that occur through
27 purely mechanical means, including as measured against all of the
28 following criteria:

29 (A) Release or generation of air and water pollutants or any
30 hazardous pollutants;

31 (B) Generation of hazardous waste;

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

33 (D) Environmental impacts on overburdened communities and
34 vulnerable populations;

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

37 (F) Public health impacts; and

38 (G) Capture and recycling rates;

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

1 (iv) Meets an unmet need in the state that will result in meeting
2 recycling performance targets, including creating new recycling
3 markets for materials currently disposed of in landfills or
4 incinerated;

5 (v) Produces food-grade or pharmaceutical grade recycled content;

6 (vi) Provides third-party certification of recycled content; and

7 (vii) Those other environmental impacts as determined by the
8 department.

9 (d) (i) In making its determination under (c) of this subsection,
10 the department must take into consideration any local, state, or
11 federal environmental permitting requirements that govern the
12 operation of an alternative recycling process that reduces air and
13 water pollutants or the generation of hazardous waste or pollutants.

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

19 (iii) A person may appeal a decision by the department under this
20 subsection (5) (d) to the pollution control hearings board.

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

29 (f) Nothing in this chapter prohibits or affects the use of any
30 alternative recycling process for products or packaging that are not
31 covered products under this chapter.

32 (6) (a) Material recovery facilities receiving covered products
33 from government entities or private service providers collected
34 through activities undertaken in accordance with this chapter must
35 measure and report annually to the department by commodity type and
36 material category, in a form and format approved by the department,
37 on the following parameters associated with covered products received
38 and processed:

39 (i) Tons received, by jurisdiction and service provider;

40 (ii) Inbound material quality and contamination;

- 1 (iii) Outbound material quality and contamination;
- 2 (iv) Outbound material tons and end markets by commodity type,
3 including whether the end markets are domestic, export to
4 organization for economic cooperation and development countries, or
5 export to facilities in other countries that meet organization for
6 economic cooperation and development operating standards;
- 7 (v) Management of contaminants and residue to avoid negative
8 impacts on other waste streams or facilities;
- 9 (vi) Residuals, including residue rate, composition, and disposal
10 location;
- 11 (vii) Any violations of existing permits, regarding emissions to
12 air and water, and the status of those permit violations; and
- 13 (viii) Labor metrics including wages, unions, and workforce
14 demographics.

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

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

24 (7) Material recovery facilities and other processing facilities
25 handling materials under this chapter shall prioritize agreements
26 with and on behalf of producers or producer responsibility
27 organizations regarding long-term contracts and other purchase
28 agreements based on fair market pricing for commodities of comparable
29 quality.

30 NEW SECTION. **Sec. 111.** PERFORMANCE RATES. (1) Any producer
31 responsibility organization plan submitted to the department must
32 include performance rates for covered products reported by the
33 producer responsibility organization as supplied into the state,
34 taking into account the findings of the *December 2023 Washington*
35 *Recycling, Reuse, and Source Reduction Target Study and Community*
36 *Input Process*, statewide needs assessment, and additional relevant
37 data. The rates submitted by a producer responsibility organization
38 must be achieved by the end of the plan implementation period.

1 (a) At minimum, the plan must include the following performance
2 rates averages across all covered products within a registered
3 producer responsibility organization:

4 (i) An overall recycling rate of covered products;

5 (ii) Beginning with the second plan, a separate minimum reuse
6 rate of covered products;

7 (iii) A recycling rate for each material category of covered
8 products reported by the producer responsibility organization as
9 supplied into the state; and

10 (iv) A source reduction rate to be achieved by the elimination of
11 covered product components or a reduction in the weight of covered
12 products, with at least 25 percent of the total rate being achieved
13 by solely eliminating plastic components. The elimination of a
14 plastic component must not render the covered material detrimental to
15 recycling or nonrecyclables. This source reduction rate must
16 calculate the amount of covered material the producers have source
17 reduced since January 1, 2013.

18 (b) Proposed rates must demonstrate continuous improvement in
19 performance rates of covered products over time, until the department
20 determines that a maximum level of technically achievable process has
21 been achieved.

22 (c) Proposed rates must adhere to the performance rate
23 calculation methodology established in subsections (2) through (4) of
24 this section.

25 (d) Proposed rates must be justified, if they are different from
26 those recommended in the most recent performance rates study.

27 (2) For the purposes of this chapter, the department must adopt
28 rules for measuring the performance rates of each material category
29 of covered products.

30 (3) To be included in a performance rate calculation for purposes
31 of this chapter, recycled materials must be transferred to a
32 responsible end market.

33 (4) For purposes of calculations of reuse and elimination under
34 this section, a producer responsibility organization must include
35 both the weight and number of units.

36 NEW SECTION. **Sec. 112.** FUNDING REQUIREMENTS. (1) A producer
37 responsibility organization implementing a plan must fully fund all
38 activities required under this chapter.

1 (2) A nonreimbursable point-of-sale fee may not be charged to
2 consumers to recoup the costs of meeting producer obligations under
3 this chapter.

4 (3)(a) A producer responsibility organization must develop a
5 system to collect fees from participating producers to cover the
6 costs of plan implementation. To minimize the administrative and
7 reporting costs of the producers and the organization, the fee system
8 must include a category of small producers, determined by weight of
9 covered products sold into the state, for whom no fees are charged by
10 the producer responsibility organization.

11 (b) The fee system may include:

12 (i) Additional charges applied specifically to producers of
13 postconsumer recycled content products covered by the requirements of
14 chapter 70A.--- RCW (the new chapter created in section 502 of this
15 act), in an amount roughly equivalent to fully cover the producer
16 responsibility organization's costs of implementing its duties under
17 chapter 70A.--- RCW (the new chapter created in section 502 of this
18 act), including funding the oversight of the department; and

19 (ii) An optional flat rate for producers below a certain size.

20 (c) A producer responsibility organization shall allow producers
21 of covered products that are magazines to satisfy their obligations
22 under this section by providing advertisement or publication
23 supporting the education and outreach activities required under
24 section 118 of this act in their magazines, or on their websites in
25 lieu of program fees as long as the value of the advertisement is
26 equivalent to the estimated cost of managing the covered products
27 that are magazines, which are to be determined as described in
28 subsection (4) of this section. The producer responsibility
29 organization may consider the in-state reach of the advertising when
30 determining the value of the advertising.

31 (4) The fee system must include a base rate, based upon the
32 estimated cost of managing the material categories of covered
33 products, while seeking to avoid a material category that subsidizes
34 any other material category. The base rate must be proportional to
35 the costs to the producer responsibility organization for that
36 covered product type, material, or format. In establishing the base
37 rate, a producer responsibility organization must consider the
38 following factors:

1 (a) The total annual amount of covered products sold or supplied
2 into the state, by material category, whether or not the material is
3 currently recyclable or designated for collection for recycling;

4 (b) The material characteristics and the costs associated with
5 the management of each material category; and

6 (c) The commodity value of each material category as a recycled
7 material.

8 (5)(a) In addition to the base rate charged under subsection (4)
9 of this section, the fee system must use eco-modulation factors to
10 incentivize the use of packaging design attributes that reduce the
11 negative environmental impacts of covered products. The factors must
12 include both positive incentives, including discounted fees, and
13 disincentives, including increased fees. Examples of activities that
14 a fee system may include to satisfy the requirement to use eco-
15 modulation factors include, but are not limited to:

16 (i) Encourage designs that facilitate and improve infrastructure
17 and systems for reuse, recycling, and home and industrial composting,
18 and that achieve reuse, recycling, and home and industrial
19 composting;

20 (ii) Encourage the use of postconsumer recycled content;

21 (iii) Encourage designs that reduce the amount of packaging
22 material used;

23 (iv) Discourage the use of problematic or difficult to recycle
24 materials that increase system costs of managing covered products;
25 and

26 (v) Encourage other design attributes that reduce the climate and
27 other negative environmental impacts of covered products.

28 (b)(i) Any system of program fees under this section that
29 includes discounted fees or favorable treatment of covered products
30 deemed to be reusable must establish a basis for determining that
31 products, in practice, are designed and supported by adequate
32 infrastructure to ensure they are reused multiple times as part of a
33 system of reuse.

34 (ii) Any system of program fees under this section must consider
35 and provide fair treatment to instances in which federal regulations
36 constrain the use of packaging design attributes that reduce the
37 negative environmental impacts of covered products.

38 (c) Fees collected under this fee system must be used exclusively
39 for plan implementation and other activities required under this

1 chapter and chapter 70A.--- RCW (the new chapter created in section
2 502 of this act).

3 (6) If more than one producer responsibility organization is
4 registered within the state, each producer responsibility
5 organization must coordinate with other producer responsibility
6 organizations to provide reimbursement and ensure that government
7 entities and service providers are reimbursed for recycling services
8 as required under this chapter, and to ensure that covered products
9 are not reported as supplied or managed by more than one producer
10 responsibility organization.

11 (7)(a) Each producer responsibility organization must fund,
12 through a fee paid to the department, the costs to the department to
13 establish and implement a packaging financial assistance program to
14 reduce the negative environmental impacts of covered products through
15 reuse. The fee charged to any producer responsibility organization
16 may not exceed:

17 (i) \$5,000,000 each year, beginning with the year of producer
18 responsibility organization registration with the department under
19 section 103 of this act through the year 2028;

20 (ii) Four percent of the three-year average of the organization's
21 annual expenditures, excluding payments of the fee established under
22 this section, as described in the organizations' annual reports
23 submitted under section 119 of this act, beginning in 2029.

24 (b) Fees to administer the packaging financial assistance program
25 collected under this subsection must be deposited in the packaging
26 financial assistance account created in section 128 of this act.

27 (c) Entities eligible for financial assistance include, but are
28 not limited to:

29 (i) Government entities;

30 (ii) Tribal governments;

31 (iii) Nonprofit organizations; and

32 (iv) Private organizations, if the department determines that the
33 money would be used to support the goals of this chapter.

34 (d) In providing financial assistance for programs under this
35 section, the department must consider criteria that includes, but is
36 not limited to:

37 (i) The environmental benefits of the program;

38 (ii) The human health benefits of the program;

39 (iii) The social and economic benefits of the program;

40 (iv) The cost-effectiveness of the program; and

1 (v) The needs of economically distressed or overburdened
2 communities.

3 NEW SECTION. **Sec. 113.** CONVENIENCE STANDARDS. (1) In every
4 jurisdiction in which covered products are sold or supplied to
5 consumers, a producer responsibility organization must fund
6 activities to make convenient collection services available for the
7 lists of covered products designated for collection by the department
8 as described in section 107 of this act. Convenient collection
9 services must be available to residents as follows:

10 (a) Curbside collection of materials identified as suitable for
11 residential curbside collection must be provided to residents in
12 single-family and multifamily residences wherever curbside garbage
13 collection services are provided to these entities, except where a
14 county has adopted an ordinance that designates that these materials
15 must be collected exclusively through drop-off locations as allowed
16 in section 114 of this act.

17 (b) Collection of materials identified as suitable for drop-off
18 collection must be provided through free and equitable access to
19 permanent collection facilities that are located, at minimum, at each
20 solid waste transfer, processing, or disposal site, or other drop-off
21 location, or a location demonstrated to the department to be of equal
22 convenience, that existed prior to the effective date of this
23 section.

24 (c) Collection of materials identified as suitable for
25 alternative collection only must be provided through collection
26 services that provide free and equitable access to residents at a
27 minimum:

28 (i) Consistent with the requirements described in (b) of this
29 subsection applicable to materials suitable for drop-off collection;
30 and

31 (ii) In communities that are not covered by a collection location
32 described in (c)(i) of this subsection. A producer responsibility
33 organization, after soliciting and accommodating input from the
34 department, the relevant government entity, and the local community,
35 must determine a reasonable number and location of additional drop-
36 off locations or frequency and location of collection events or
37 services to be provided in underserved areas. A producer
38 responsibility organization must give special consideration for

1 providing opportunities to island and geographically isolated
2 populations.

3 (d) A retail establishment may choose to serve as a drop-off
4 location or as the site of a collection event, or both, through
5 mutual agreement with a producer responsibility organization, but
6 nothing in this chapter requires a retail establishment to serve as a
7 drop-off location or site of a collection event.

8 (e) For the duration of the initial plan implementation term,
9 collection must be provided in the following public places:

10 (i) Any location where government entities provided and managed
11 recycling collection receptacles as of July 1, 2024. The number and
12 location of receptacles may be adjusted to optimize collection based
13 on mutual agreement between the producer responsibility organization
14 and the government entity providing the service; and

15 (ii) At additional locations as determined by the producer
16 responsibility organization, after considering the recommendations of
17 the statewide needs assessment in section 105 of this act and
18 stakeholder consultation in section 106 of this act. Collection in
19 additional locations is subject to mutual agreement by the producer
20 responsibility organization and the government entity or other entity
21 responsible for the public place.

22 (2) In any jurisdiction where collection of source separated
23 recyclable materials from residences is provided by a city or town
24 under the authority of RCW 35.21.120, by a county under the authority
25 of RCW 36.58.040, or by a company that holds an applicable
26 certificate under the authority of chapter 81.77 RCW, a producer
27 responsibility organization must meet its curbside collection service
28 obligation through the curbside collection service in the
29 jurisdiction as described in section 114 of this act.

30 (3) Collection of source separated recyclable materials through
31 drop-off collection, alternative collection, and public place
32 collection must be provided in a manner consistent with the authority
33 of a city or town under RCW 35.21.120, of a county under RCW
34 36.58.040, or under chapter 81.77 RCW. A producer responsibility
35 organization shall contract with existing recycling depots or drop-
36 off center locations, including existing solid waste facilities, to
37 provide for collection of covered products designated for drop off or
38 alternate collection if the existing facility meets all of the
39 following conditions:

1 (a) The operator of the existing recycling depot or drop-off
2 center is willing to contract to provide collection service on behalf
3 of the producer responsibility organization; and

4 (b) The operator of the existing recycling depot or drop-off
5 center commits to meet standards and other requirements to meet goals
6 consistent with this chapter.

7 (4) Every producer responsibility organization must identify in
8 its plan and on its website, in appropriate languages, maps of each
9 area where curbside, drop-off, and alternative collection services
10 for covered products are available, a list and map of the location of
11 each permanent collection opportunity for covered products, the types
12 and a list and map of locations of alternate collection methods used,
13 and a list and map of the locations of public place collection
14 services for covered products.

15 NEW SECTION. **Sec. 114.** GOVERNMENT ENTITIES—AUTHORITY TO COLLECT
16 COVERED PRODUCTS. (1) The provisions of this chapter do not:

17 (a) Obligate a county, city, or town that utilizes its contract
18 authority under RCW 35.21.120 or 36.58.040 for collection of source
19 separated recyclable materials from residents or a city or town that
20 undertakes collection of source separated recyclable materials from
21 residents to participate in a plan implemented by a producer
22 responsibility organization;

23 (b) Restrict the authority of a city under RCW 35.21.120,
24 35.21.130, and 35.21.152; or

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

26 (2) A city or town that has previously exercised authority under
27 RCW 35.21.120 or a county that has exercised authority under RCW
28 36.58.040 to contract for residential curbside recycling services,
29 where the terms of the contract are legally enforceable as of the
30 effective date of this section, and the contracted service provider
31 shall make reasonable, good faith efforts to negotiate provisions or
32 changes to contract terms consistent with the goals of this chapter,
33 limited to those that pertain to service standards for the purpose of
34 cost reimbursement as described in section 115 of this act, and that
35 do not materially affect other provisions of the contract.

36 (3) (a) A city, town, county, or other government entity may enter
37 into contractual agreements with a producer responsibility
38 organization or organizations for the purposes of reimbursement of

1 costs of services provided in accordance with the requirements of
2 this chapter.

3 (b) A producer responsibility organization must reimburse the
4 government entity for services delivered in accordance with the
5 requirements of this chapter as described in section 115 of this act.

6 (c)(i) A city or town that exercises authority under RCW
7 35.21.120 or a county under RCW 36.58.040 to contract for residential
8 curbside recycling services is not restricted from providing service
9 standards for curbside collection of source separated recyclable
10 materials from residences that exceeds the service standards for
11 curbside collection included in a producer responsibility
12 organization plan approved by the department, but a producer
13 responsibility organization is not obligated to reimburse costs
14 associated with the additional service standards.

15 (ii) For the purposes of this subsection (3)(c), "service
16 standards" has the same meaning as referred to in RCW 70A.205.045(7).

17 (4) Consistent with RCW 81.77.020, where a city or town chooses
18 not to exercise its authority under chapter 35.21 RCW, or a county
19 chooses not to exercise its authority under chapter 36.58 RCW,
20 curbside collection of covered products designated for collection as
21 source separated recyclable materials from residences in areas
22 regulated by the utilities and transportation commission under the
23 provisions of chapter 81.77 RCW must be provided by a company that
24 holds an applicable certificate issued by the utilities and
25 transportation commission.

26 (5) A county may, by ordinance, direct that the full list of
27 materials on the uniform statewide collection list identified as
28 suitable for residential curbside collection be collected exclusively
29 through drop-off locations in areas regulated by the utilities and
30 transportation commission under the provisions of chapter 81.77 RCW
31 if the area was designated as rural in the county solid waste
32 management plan and no curbside recycling collection service was
33 offered within those areas as of the effective date of this section.

34 (6) Government entities are not obligated to provide resident
35 education and outreach under this chapter but may carry out or
36 contract for resident education and outreach consistent with producer
37 responsibility organization plan provisions under section 118 of this
38 act and be reimbursed for the costs of education and outreach
39 performed by the government entity as described in section 115 of
40 this act.

1 (7) A city, town, or county may not enact an ordinance requiring
2 producers of covered products to provide residential recycling
3 services for covered products that are additional to the requirements
4 of this chapter unless producers are not required to fully fund the
5 requirements of this chapter under section 112 of this act.

6 NEW SECTION. **Sec. 115.** COST REIMBURSEMENT FOR SERVICES PROVIDED
7 BY GOVERNMENT ENTITIES. (1) A producer responsibility organization
8 with covered products designated for curbside collection under its
9 plan must provide reimbursement to a government entity that chooses
10 to seek reimbursement for costs incurred in delivering curbside
11 collection services, whether these services are provided directly or
12 through a contracted service provider, or both. Costs that must be
13 reimbursed by a producer responsibility organization include, as
14 applicable, any administrative, planning, public education,
15 collection, transportation, and sorting or processing costs incurred
16 in delivering curbside collection services in accordance with the
17 requirements of this chapter. Reimbursements for curbside collection
18 services must be informed by the costs established in the statewide
19 needs assessment and included in the producer responsibility
20 organization plan approved by the department.

21 (2) If a producer responsibility organization elects to use the
22 services of a government entity for any services included in the
23 producer responsibility organization plan other than curbside
24 collection services, it must provide reimbursement to the government
25 entity. Reimbursement for any services other than curbside collection
26 services may be calculated using reimbursement rates informed by the
27 costs established in the statewide needs assessment and included in
28 the producer responsibility organization plan approved by the
29 department.

30 (3) Any government entity that receives reimbursement for costs
31 incurred in delivering curbside collection services must report or
32 publish reimbursed costs to its residents annually and as part of
33 each rate increase notification required under RCW 35.21.157.

34 NEW SECTION. **Sec. 116.** COST REIMBURSEMENT FOR SERVICES
35 REGULATED BY THE UTILITIES AND TRANSPORTATION COMMISSION. (1) In
36 areas where collection of source separated recyclable materials from
37 residences is regulated by the utilities and transportation
38 commission under chapter 81.77 RCW, a producer responsibility

1 organization must provide reimbursement to the company granted a
2 certificate for each residential customer to whom service is
3 provided. The rate of reimbursement must be in accordance with the
4 rates approved by the commission and in accordance with rules for
5 solid waste collection company reimbursement established by the
6 commission as described in section 306 of this act, including all
7 associated taxes and fees that would be otherwise charged to
8 residential customers directly or indirectly for recycling service.

9 (2) To be eligible for reimbursement from a producer
10 responsibility organization under this section, the company granted a
11 certificate must provide service that:

12 (a) Is offered to residents in single-family and multifamily
13 residences wherever curbside garbage collection services are offered,
14 except in areas subject to an ordinance described in section 114(5)
15 of this act;

16 (b) Includes collection of all covered products designated for
17 curbside collection by the department; and

18 (c) Is provided in a manner consistent with the requirements of
19 chapter 70A.205 RCW for curbside collection services of source
20 separated recyclable materials from residences and with chapter 81.77
21 RCW.

22 (3) A solid waste collection company may include text on service
23 bills indicating that recycling services are being provided at no
24 charge to the customer.

25 NEW SECTION. **Sec. 117.** INFRASTRUCTURE INVESTMENTS. (1) Each
26 producer responsibility organization must fund and support
27 investments in infrastructure and market development in Washington
28 state as needed to achieve the convenience standards specified in
29 section 113 of this act, the management standards specified in
30 section 110 of this act, the performance rates set in producer
31 responsibility organization plans as described in section 111 of this
32 act, or to address infrastructure gaps, as identified through the
33 statewide needs assessment under section 105 of this act and through
34 the consultation process under section 106 of this act. Investments
35 in infrastructure and market development may include, but are not
36 limited to, those needed to enable reuse, recycling, or composting of
37 covered products not currently reused, recycled, or composted, such
38 as:

1 (a) Providing funding for the purchase and installation of new
2 equipment or infrastructure or for upgrades to existing equipment or
3 infrastructure to improve sorting of covered products or mitigating
4 the negative impacts of covered products to other commodities at
5 existing material recovery facilities that accept covered products;

6 (b) Capital expenditures for new technology, equipment, and
7 facilities; and

8 (c) Providing funding for the purchase and installation of new
9 equipment or infrastructure or for upgrades to existing equipment or
10 infrastructure to meet the goals of this chapter for:

11 (i) Solid waste collection companies regulated under chapter
12 81.77 RCW;

13 (ii) Providers of curbside solid waste collection services under
14 a contract with a city under chapter 35.21 RCW or a county under
15 chapter 36.58 RCW; and

16 (iii) A government entity that elects to provide its own curbside
17 collection of source separated recyclable materials from residences.

18 (2) (a) Investments must be detailed in the annual report
19 submitted to the department in the manner specified in section 119 of
20 this act.

21 (b) In meeting the requirements of this section, a producer
22 responsibility organization must prioritize investments in
23 preexisting infrastructure within Washington state.

24 (c) If a producer responsibility organization did not invest in
25 preexisting infrastructure within Washington state, the annual report
26 must include a statement of the reasons why no such investment was
27 made.

28 (3) The direct or indirect receipt of funds from a producer
29 responsibility organization under this chapter does not confer any
30 inherent ownership or interest to the producer responsibility
31 organization in any asset or company to which producer responsibility
32 funds are directed and does not confer any inherent right to control
33 use of any asset or company operations.

34 NEW SECTION. **Sec. 118.** EDUCATION AND OUTREACH. (1) A producer
35 responsibility organization must implement education and outreach
36 activities that effectively reach diverse residents, are accessible,
37 are clear, and support the achievement of the performance rates. A
38 producer responsibility organization must, at minimum:

1 (a) Develop and provide outreach and educational materials,
2 resources, and campaigns that encourage participation in recycling
3 collection and reuse systems and address education and engagement
4 with residents. The outreach and education materials must support
5 recycling and reuse behaviors;

6 (b) Help obtain consistently high levels of public participation
7 in and use of collection services and reuse systems, including where
8 and how to recycle covered products designated for collection, or
9 return or refill reusable covered products;

10 (c) Provide information that helps reduce the rate of inbound
11 contamination or unwanted materials with the aim of reducing resident
12 confusion regarding the end-of-life management options available for
13 different covered products;

14 (d) Use consistent and easy to understand messaging and education
15 statewide;

16 (e) Be conceptually, linguistically, and culturally accurate for
17 the communities served and tailored to effectively reach the state's
18 diverse populations, including through meaningful consultation with
19 overburdened communities and vulnerable populations;

20 (f) Be able to be used by retail establishments, collectors,
21 government entities, and nonprofit organizations;

22 (g) Coordinate and fund the distribution and deployment of
23 statewide promotional campaigns developed under this section through
24 media channels that may include, but are not limited to, print
25 publications, radio, television, the internet, and online streaming
26 services;

27 (h) Establish a process for answering customer questions and
28 resolving customer concerns; and

29 (i) Evaluate the effectiveness of education and outreach efforts
30 for the purposes of making progress toward performance requirements
31 established in this chapter.

32 (2)(a) A producer responsibility organization must coordinate
33 with government entities that choose to participate in carrying out
34 resident education and outreach in accordance with the approach
35 specified in the producer responsibility organization's plan.

36 (b) All producer responsibility organizations implementing a plan
37 approved by the department must collaborate to present a consistent
38 statewide program to ensure that all state residents can easily
39 identify, understand, and access services provided by any approved
40 producer responsibility organization. The department may require

1 producer responsibility organizations to coordinate and use
2 consistent signage and consistent messaging in education and outreach
3 activities under this section.

4 NEW SECTION. **Sec. 119.** ANNUAL REPORT. (1) Beginning July 1,
5 2030, and each July 1st thereafter, a producer responsibility
6 organization must submit an annual report to the department for the
7 preceding calendar year of plan implementation.

8 (2) The annual report must include specified information related
9 to the activities and responsibilities of the producer responsibility
10 organization under this chapter, as determined by the department by
11 rule.

12 (3) (a) The annual report must include the total cost of
13 implementing the plan approved by the department, as determined by an
14 independent financial audit and performed by an independent auditor,
15 including:

16 (i) Information regarding the independently audited financial
17 statements detailing all payments received and issued by the producer
18 responsibility organization covered by the plan approved by the
19 department;

20 (ii) A copy of the independent audit; and

21 (iii) A detailed description of how the program compensates
22 government entities, private collection and transportation service
23 providers, material recovery facilities, and other approved entities
24 for services under chapter 70A.--- (the new chapter created in
25 section 502 of this act).

26 (b) Prior to the submission of the annual report, all
27 nonfinancial data and information that is material to the
28 department's review of the program's compliance with the requirements
29 of this chapter must be audited annually by a third party that is a
30 nationally or internationally recognized, independent laboratory or
31 certification body that has received ISO/IEC 17065 accreditation as
32 it existed as of January 1, 2024, or a similar accreditation as
33 determined by the department.

34 (c) Annual independent auditing and verification must:

35 (i) Include documentation of the performance rate calculations;
36 and

37 (ii) Encompass the management of materials from the point of
38 collection through processing and sale of recycled materials to
39 responsible end markets.

1 NEW SECTION. **Sec. 120.** ADVISORY COUNCIL. (1) The advisory
2 council is established.

3 (2) The advisory council consists of members appointed by the
4 department as follows:

5 (a) Four representatives of local governments representing
6 geographic areas across the state, including two representatives of
7 counties and two representatives of cities, each with one
8 representative of urban communities and one representative of rural
9 communities;

10 (b) One representative of tribal or indigenous solid waste
11 services organizations;

12 (c) One representative of special purpose districts involved in
13 activities related to the end-of-life management of solid waste;

14 (d) Two representatives of community-based organizations whose
15 mission is to serve the interests of overburdened communities and
16 vulnerable populations;

17 (e) Two representatives of environmental nonprofit organizations;

18 (f) One owner or operator of a small business that is not
19 eligible for representation under (g), (h), or (i) of this
20 subsection;

21 (g) Six representatives of the recycling industry, including
22 local governments' service providers, solid waste collection
23 companies or associations, material recovery facilities, or other
24 processing facilities;

25 (h) Three representatives of producers of covered products or
26 producer trade associations representing different types of covered
27 products. A member appointed to the advisory council under this
28 subsection may not be a representative or a member of the board of
29 directors of a producer responsibility organization registered with
30 the department under section 103 of this act;

31 (i) Two representatives of packaging suppliers that are not
32 producers as defined under this chapter representing different
33 material categories; and

34 (j) One representative of a retail establishment.

35 (3) Advisory councilmembers must be appointed by the director of
36 the department by January 1, 2025. In appointing members, the
37 department shall:

38 (a) Appoint members that, to the greatest extent practicable,
39 represent diversity in race, ethnicity, age, and gender, urban and
40 rural areas, and different regions of the state;

1 (b) Consider recommendations for appointments from relevant
2 represented groups or associations and from individuals interested in
3 participating on the advisory council.

4 (4) (a) The terms of initial appointments must be staggered to two
5 and three-year appointments, with subsequent terms of three years.
6 Members are eligible for reappointment.

7 (b) If there is a vacancy for any reason, the department shall
8 make an appointment to become effective immediately for the unexpired
9 term.

10 (5) (a) The advisory council shall elect one of its members to
11 serve as chairperson and another to serve as vice chairperson, for
12 the terms and with the duties and powers necessary for the
13 performance of the functions of such offices as the advisory council
14 determines. The chairperson and vice chairperson may not both be
15 members appointed under the same subsection of subsection (2) (a)
16 through (i) of this section.

17 (b) The advisory council may adopt bylaws and a charter for the
18 operation of its business for the purposes of this chapter.

19 (6) The advisory council shall meet at least once every three
20 months for the first three years, at times and places specified by
21 the chairperson. The advisory council may also meet at other times
22 and places, including virtually, specified by the call of the
23 chairperson or of a majority of the councilmembers, as necessary, to
24 carry out the duties of the advisory council.

25 (7) (a) The department shall provide staff support and
26 facilitation as necessary for the advisory council to carry out its
27 duties.

28 (b) The department may select an impartial, third-party
29 facilitator to convene and provide administrative support to the
30 advisory council.

31 (8) The duties of the advisory council include the following:

32 (a) Advise and make recommendations to the department on the
33 scope of the statewide needs assessments;

34 (b) Review and comment on a draft statewide needs assessment
35 prior to its completion;

36 (c) Review and comment on draft lists developed under section 107
37 of this act and any updates to the collection lists;

38 (d) Advise and make recommendations to any registered producer
39 responsibility organization during stakeholder consultation on plans
40 as required under section 106 of this act;

1 (e) Review and comment on all new and updated plans submitted by
2 a producer responsibility organization to the department, including
3 making recommendations to the department on plan approvals, as part
4 of the public comment period as established under section 104 of this
5 act;

6 (f) Advise and make recommendations to any registered producer
7 responsibility organization on annual reports prior to submission as
8 established in section 119 of this act;

9 (g) Review and comment on all annual reports submitted by
10 producer responsibility organizations to the department, including
11 making recommendations to the department regarding the need for any
12 plan amendments or other recommendations regarding program
13 activities;

14 (h) Provide input, review, and comment on rules proposed by the
15 department under this chapter; and

16 (i) Review the implementation by producers and producer
17 responsibility organizations of their obligations under this chapter
18 and provide comment to the department if the advisory council finds
19 that a producer or producer responsibility organization has not met
20 or is not meeting a requirement under this chapter. The advisory
21 council may submit a request to the department to take the
22 enforcement actions specified in section 123 (1), (2), or (5) of this
23 act.

24 (9) Prior to the submission of a plan or plan update to the
25 department, each producer responsibility organization must submit the
26 plan to the advisory council for review and comment. The producer
27 responsibility organization must address each comment and respond as
28 to whether and how each was incorporated into the plan submitted to
29 the department.

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

35 (11) The department must include costs related to the advisory
36 council in the estimate of annual costs as established in section 104
37 of this act, including costs for:

38 (a) Department resources, including staff time;

39 (b) A third-party facilitator, including related costs; and

1 (c) Expenses related to member participation as established in
2 subsection (10) of this section.

3 (12) Nothing in this section limits the authority of the
4 department to approve plans or reports or carry out other duties as
5 assigned under this chapter.

6 NEW SECTION. **Sec. 121.** CONFIDENTIAL INFORMATION SUBMISSION. A
7 producer responsibility organization, material recovery facility, or
8 other processing facility that submits information or records to the
9 department under this chapter or chapter 70A.--- RCW (the new chapter
10 created in section 502 of this act) may request that the information
11 or records be made available only for the confidential use of the
12 department, the director of the department, or the appropriate
13 division of the department. The director of the department must give
14 consideration to the request and if this action is not detrimental to
15 the public interest and is otherwise in accordance with the policies
16 and purposes of chapter 43.21A RCW, the director must grant the
17 request for the information to remain confidential as authorized in
18 RCW 43.21A.160.

19 NEW SECTION. **Sec. 122.** PROHIBITION ON THE USES OF FUNDS BY
20 PRODUCER RESPONSIBILITY ORGANIZATIONS. (1) A producer responsibility
21 organization may not use funds collected for purposes of implementing
22 a plan required under this chapter for costs associated with:

23 (a) The payment of an administrative penalty levied under this
24 chapter;

25 (b) Administrative appeals of orders or penalties issued under
26 this chapter;

27 (c) Litigation between the producer responsibility organization
28 and the state;

29 (d) Compensation of a person whose position is primarily
30 representing the producer responsibility organization relative to the
31 passage, defeat, approval, or modification of legislation that is
32 being considered by a government entity; or

33 (e) Paid advertisements related to encouraging the passage,
34 defeat, or approval, or modification of legislation that is being
35 considered during an upcoming or current legislative session or was
36 considered during the previous legislative session.

37 (2) Nothing in this section limits the authority of a producer
38 responsibility organization to collect funds, such as through a

1 special assessment, for purposes other than implementing a plan
2 required under this chapter, such as for the purposes identified in
3 subsection (1)(a) through (e) of this section.

4 NEW SECTION. **Sec. 123.** ENFORCEMENT AUTHORITY. (1)(a) The
5 department may administratively impose a civil penalty of up to
6 \$1,000 per violation per day on any producer who violates this
7 chapter or on any producer responsibility organization that violates
8 this chapter and up to \$10,000 per violation per day for the second
9 and each subsequent violation.

10 (b) For producers out of compliance with the requirements of this
11 chapter, the department shall provide written notification and offer
12 information to producers in violation of this section. For the
13 purposes of this section, written notification serves as notice of
14 the violation. The department must issue at least one notice of
15 violation by certified mail prior to assessing a penalty and the
16 department may only impose a penalty on a producer that has not met
17 the requirements of this chapter 60 days following the date the
18 written notification of the violation was sent.

19 (2) Upon the department notifying a producer responsibility
20 organization that the producer responsibility organization has not
21 met a significant requirement of this chapter or chapter 70A.--- RCW
22 (the new chapter created in section 502 of this act), the department
23 may, in addition to assessing the penalties provided in subsection
24 (1) of this section, take any combination of the following actions:

25 (a)(i) Issue corrective action orders to a producer or producer
26 responsibility organization;

27 (ii) Issue orders to a producer responsibility organization to
28 provide for the continued implementation of the program in the
29 absence of an approved plan;

30 (b) Revoke the producer responsibility organization's plan
31 approval and require the producer responsibility organization to
32 implement its contingency plan under section 109 of this act;

33 (c) Require a producer responsibility organization to revise or
34 resubmit a plan within a specified time frame; or

35 (d) Require additional reporting related to compliance with the
36 significant requirement of this chapter that was not met.

37 (3) Prior to taking the actions described in subsection (2)(b) of
38 this section, the department must provide the producer responsibility

1 organization or the producer an opportunity to respond to or rebut
2 the written finding upon which the action is predicated.

3 (4) A person may not sell or distribute in or into the state a
4 covered product of a producer that is not participating in a producer
5 responsibility organization or that is not in compliance with the
6 requirements of this chapter or rules adopted under this chapter.

7 (5) The department shall serve, or send with delivery
8 confirmation, a written warning explaining the violation to a person
9 distributing or selling covered products in or into the state of a
10 producer that is not participating in a producer responsibility
11 organization or that is not in compliance with this chapter or rules
12 adopted under this chapter.

13 (6) The department may assess a penalty on a person that
14 continues to sell or distribute covered products of a producer that
15 is not participating in an approved producer responsibility
16 organization 60 days after receipt of the written warning under
17 subsection (5) of this section. The amount of the penalty that the
18 department may assess under this subsection is twice the value of the
19 covered products sold in violation of this chapter or \$500, whichever
20 is greater. The department must waive the penalty upon verification
21 that the person has discontinued distribution or sales of the covered
22 product within 30 days of the date the penalty is assessed.

23 (7) Any person who incurs a penalty under subsection (1) or (6)
24 of this section or an order under subsection (2) of this section may
25 appeal the penalty or order to the pollution control hearings board
26 established in chapter 43.21B RCW.

27 (8) Penalties levied under this section must be deposited in the
28 recycling enhancement account created in RCW 70A.245.100.

29 (9) Upon receipt of a request from the advisory council
30 established in section 120 of this act, the department must consider
31 the appropriateness of the use of enforcement authority authorized in
32 this section.

33 NEW SECTION. **Sec. 124.** TRUTH IN LABELING. (1) Beginning January
34 1, 2028, a producer may not offer for sale, sell, or distribute in or
35 into Washington, including by means of remote sale, any covered
36 product under this chapter, certified PCRC product under chapter
37 70A.245 RCW, or PCRC product under chapter 70A.--- RCW (the new
38 chapter created in section 502 of this act) that makes a deceptive or
39 misleading claim about its recyclability, percentage of recycled

1 content, or, consistent with chapter 70A.455 RCW, its ability to be
2 composted.

3 (a) A covered product, certified PCRC product, or PCRC product
4 that displays a chasing arrows symbol, a chasing arrows symbol
5 surrounding a resin identification code, or any other symbol or
6 statement indicating that it is recyclable is deemed to be deceptive
7 or misleading unless it is designated for collection by the
8 department as described in section 107 of this act.

9 (b) A label is not considered a misleading or deceptive claim of
10 recyclability if it:

11 (i) Is required by another state or by a federal law or agency at
12 the time that the claim is made;

13 (ii) Is part of a widely adopted and standardized third-party
14 labeling system; or

15 (iii) Uses a chasing arrows symbol in combination with a clearly
16 visible line placed at a 45-degree angle over the chasing arrows
17 symbol to convey that an item is not recyclable.

18 (2)(a) At such time as an enforceable federal statutory or
19 regulatory standard is implemented for labeling packaging related to
20 recyclability, within 180 days the department shall review criteria
21 under this chapter with federal standards or requirements. Upon
22 completing its review, the department may adopt the federal criteria
23 in lieu of the requirements of this section.

24 (b) In the plan submitted under section 107 of this act, a
25 producer responsibility organization must outline guidance to
26 producers for compliance with the requirements of this section.

27 (3) Beginning August 1, 2024, a city, town, or county may not
28 enforce an ordinance restricting the distribution or sale of covered
29 products, certified PCRC products, or PCRC products due to displaying
30 a chasing arrows symbol, a chasing arrows symbol surrounding a resin
31 identification code, or any other symbol or statement indicating that
32 it is recyclable if the covered product is, at the time that the
33 claim is made:

34 (a) Designated for collection by the department as described in
35 section 107 of this act;

36 (b) Required to display the symbol or statement by another state
37 or by a federal law or agency;

38 (c) Part of a widely adopted and standardized third-party
39 labeling system; or

1 (d) Using a chasing arrows symbol in combination with a clearly
2 visible line placed at a 45-degree angle over the chasing arrows
3 symbol to convey that an item is not recyclable.

4 NEW SECTION. **Sec. 125.** OTHER. Nothing in this act impacts an
5 entity's eligibility for any state or local incentive or assistance
6 program to which they are otherwise eligible. Nothing in this act
7 limits the authority of private parties or government entities to
8 enter into contracts.

9 NEW SECTION. **Sec. 126.** ACCOUNT. The responsible packaging
10 management account is created in the custody of the state treasury.
11 All receipts received by the department under this chapter and
12 chapter 70A.--- RCW (the new chapter created in section 502 of this
13 act), except those specified for deposit in the recycling enhancement
14 account created in RCW 70A.245.100 and those specified for deposit in
15 the packaging financial assistance account created in section 128 of
16 this act, must be deposited in the account. Only the director of the
17 department or the director's designee may authorize expenditures from
18 the account. The account is subject to the allotment procedures under
19 chapter 43.88 RCW, but an appropriation is not required for
20 expenditures. Expenditures from the account may be used by the
21 department only for implementing, administering, and enforcing the
22 requirements of this chapter and chapter 70A.--- RCW (the new chapter
23 created in section 502 of this act).

24 NEW SECTION. **Sec. 127.** PETITION FOR THE EXCLUSION OF CERTAIN
25 PRODUCTS. (1) Prior to the submission of a new or updated plan under
26 section 107 of this act, the department may review and determine for
27 the duration of the upcoming plan's period of applicability whether
28 to temporarily exclude for reasons of public health and safety from
29 the requirements of this chapter, except as provided in subsection
30 (5) of this section, packaging used to contain the following
31 categories of products, subcategories of the following categories of
32 products, or individual products that are:

33 (a) Regulated under the poison prevention packaging act of 1970;
34 and

35 (b) Other products subject to requirements under federal laws
36 that make their inclusion in the requirements of this chapter
37 infeasible or inadvisable.

1 (2) The department's review may be initiated by the department or
2 upon a petition by a producer, group of producers, or producer
3 responsibility organization. The department may specify the date by
4 which a petition must be filed under subsection (1) of this section
5 in order to be considered timely for purposes of an upcoming plan
6 implementation period.

7 (3) In making a determination to temporarily exclude a category
8 of products, subcategory of products, or individual product pursuant
9 to subsection (1) of this section, the department must consider, at a
10 minimum, all of the following factors:

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

15 (b) The progress made by producers of products, categories of
16 products, or subcategories of products in achieving the goals of this
17 chapter, including by reducing the amount of packaging used with the
18 products, increasing the recycled content of the product packaging,
19 and increasing the ability of the products' packaging to be reused or
20 recycled if appropriate.

21 (4) The petition process established in this section is distinct
22 from the processes pertaining to adjustments and exclusions to
23 postconsumer recycled content requirements in section 210 of this
24 act. A product that is temporarily excluded under this section
25 remains subject to postconsumer recycled content requirements
26 established in chapter 70A.--- RCW (the new chapter created in
27 section 502 of this act) unless a petition is separately granted by
28 the department for a product under section 210 of this act.

29 (5) The producer of a product that is temporarily excluded from
30 the requirements of this chapter under this section must report,
31 directly to the department in a form and manner prescribed by the
32 department, the information related to the temporarily excluded
33 product that is required to be reported to the department by producer
34 responsibility organizations under sections 103 and 119 of this act.

35 NEW SECTION. **Sec. 128.** PACKAGING FINANCIAL ASSISTANCE ACCOUNT.
36 The packaging financial assistance account is created in the custody
37 of the state treasury. All receipts received by the department under
38 section 112(7) of this act must be deposited in the account. Only the
39 director of the department or the director's designee may authorize

1 expenditures from the account. The account is subject to the
2 allotment procedures under chapter 43.88 RCW, but an appropriation is
3 not required for expenditures. Expenditures from the account must be
4 used by the department only for implementing and administering the
5 packaging financial assistance program established in section 112(7)
6 of this act.

7 **Part Two**

8 **Postconsumer Recycled Content Requirements**

9 NEW SECTION. **Sec. 201.** DEFINITIONS. The definitions in this
10 section and section 102 of this act apply throughout this chapter
11 unless the context clearly requires otherwise.

12 (1) (a) "Beverage" means liquid products intended for human or
13 animal consumption and in a quantity more than or equal to two fluid
14 ounces and less than or equal to one gallon, including:

15 (i) Water and flavored water;

16 (ii) Beer or other malt beverages;

17 (iii) Wine;

18 (iv) Distilled spirits;

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

21 (vi) Dairy milk; and

22 (vii) Any other beverage identified by the department by rule.

23 (b) "Beverage" does not include infant formula as defined in 21
24 U.S.C. Sec. 321(z), medical food as defined in 21 U.S.C. Sec.
25 360ee(b)(3), or fortified oral nutritional supplements used for
26 persons who require supplemental or sole source nutrition to meet
27 nutritional needs due to special dietary needs directly related to
28 cancer, chronic kidney disease, diabetes, malnutrition, and failure
29 to thrive, as those terms are defined by the international
30 classification of diseases, 10th revision, or other medical
31 conditions as determined by the department.

32 (2) "Beverage manufacturing industry" means an association that
33 represents beverage producers.

34 (3) "Brand" means a name, symbol, word, logo, or mark that
35 identifies an item and attributes the item and its components,
36 including packaging, to the brand owner of the item as the producer.

1 (4) "Dairy milk" means a beverage made exclusively or principally
2 from lacteal secretions obtained from one or more milk-producing
3 animals. Dairy milk includes, but is not limited to:

4 (a) Whole milk, low-fat milk, skim milk, cream, half-and-half, or
5 condensed milk; or

6 (b) Cultured or acidified milk, kefir, or eggnog.

7 (5) "De minimis producer" means an entity that annually sells,
8 offers for sale, distributes, or imports:

9 (a) In or into the country for sale in Washington state less than
10 one ton of PCRC products specified in subsection (18)(a)(i) through
11 (vi) of this section; or

12 (b) That have a global gross revenue of less than \$5,000,000 for
13 the most recent fiscal year of the organization.

14 (6) "Department" means the department of ecology.

15 (7) "Durable good" means a product that provides utility over an
16 extended period of time.

17 (8) "Entity" means an individual and any form of business
18 enterprise. For purposes of calculating the de minimis producer
19 thresholds under this chapter, a producer entity includes all legal
20 entities that are affiliated by common ownership of 50 percent or
21 greater, including parents, subsidiaries, and commonly owned
22 affiliates.

23 (9) "Household" means all of the people who occupy a residential
24 property regardless of their relationship to one another.

25 (10) "Household cleaning and personal care product manufacturing
26 industry" means an association that represents companies that
27 manufacture household cleaning and personal care products.

28 (11) "Household cleaning products" means products labeled,
29 marketed, or otherwise indicating that the purpose of the product is
30 to clean, freshen, or remove unwanted substances, such as dirt,
31 stains, and other impurities from objects, interior or exterior
32 structures, vehicles, possessions, and environments associated with a
33 household. These items include:

34 (a) Liquid soaps, laundry soaps, detergents, softeners, surface
35 polishes, and stain removers;

36 (b) Textile cleaners, carpet and pet cleaners, and treatments; or

37 (c) Other products used to clean or freshen areas associated with
38 a household.

1 (12) "Licensee" means a manufacturer of a PCRC product or entity
2 who licenses a brand and manufactures a PCRC product under that
3 brand.

4 (13) "Personal care product" means a product intended or marketed
5 for use to be rubbed, poured, sprinkled, or sprayed on, introduced
6 into, or otherwise applied to the human body for cleansing,
7 beautifying, promoting attractiveness, or altering the appearance
8 including:

9 (a) Shampoo, conditioner, styling sprays and gels, and other hair
10 care products;

11 (b) Lotion, moisturizer, facial toner, and other skin care
12 products;

13 (c) Liquid soap and other body care products; or

14 (d) Other products used to maintain, improve, or enhance personal
15 care or appearance.

16 (14)(a) "Plastic beverage container" means a bottle or other
17 rigid container that is solely made of plastic material and is
18 capable of maintaining its shape when empty, comprised of one or
19 multiple plastic resins designed to contain a beverage. "Plastic
20 beverage container" includes a container's cap or lid, beginning
21 January 1, 2026.

22 (b) "Plastic beverage container" does not include:

23 (i) Reusable beverage containers, such as containers that are
24 sufficiently durable for multiple rotations of their original or
25 similar purpose and are intended to function in a system of reuse;

26 (ii) Rigid plastic containers or plastic bottles that are or are
27 used for medical devices, medical products that are required to be
28 sterile, drugs, or dietary supplements as defined in RCW 82.08.0293
29 that do not contain a "nutrition facts" label required under federal
30 law;

31 (iii) Bladders or pouches that contain a beverage;

32 (iv) Paper-based beverage containers; or

33 (v) Liners, corks, closures, labels, and other items added
34 externally or internally but otherwise separate from the structure of
35 the bottle or container, other than a lid or cap.

36 (15)(a) "Plastic household cleaning and personal care product
37 container" means a bottle, jug, tub, tube, or other rigid container
38 with:

39 (i) A minimum capacity of eight fluid ounces or its equivalent
40 volume;

1 (ii) A maximum capacity of five fluid gallons or its equivalent
2 volume;

3 (iii) That is capable of maintaining its shape when empty;

4 (iv) Comprised solely of one or multiple plastic resins; and

5 (v) Containing a household cleaning or personal care product.

6 (b) "Plastic household cleaning and personal care product
7 container" does not include:

8 (i) Reusable household cleaning and personal care product
9 containers, such as containers that are sufficiently durable for
10 multiple rotations of their original or similar purpose and are
11 intended to function in a system of reuse;

12 (ii) Rigid plastic containers or plastic bottles that are medical
13 devices, medical products that are required to be sterile,
14 prescription or nonprescription drugs, and dietary supplements as
15 defined in RCW 82.08.0293, and packaging used for those products;

16 (iii) Pesticide products regulated by the federal insecticide,
17 fungicide, and rodenticide act, 7 U.S.C. Sec. 136 et seq. that are in
18 direct contact with the regulated product. This exemption does not
19 include products regulated by the United States food and drug
20 administration; and

21 (iv) Liners, corks, closures, labels, and other items added
22 externally or internally but otherwise separate from the structure of
23 the bottle or container, other than a cap or lid.

24 (16)(a) "Plastic tub" means a wide-mouth rigid container used to
25 package consumable or durable goods that reach consumers, with a
26 maximum capacity of 50 ounces, that is:

27 (i) Capable of maintaining its shape when empty;

28 (ii) Comprised solely of one or multiple plastic resins and
29 designed to contain a product; and

30 (iii) Sealed with tamper-proof film or a detachable lid capable
31 of multiple openings and closures.

32 (b) "Plastic tub" does not include:

33 (i) Household cleaning and personal care products;

34 (ii) Plastic containers that are or are used for medical devices,
35 medical products that are required to be sterile, nonprescription and
36 prescription drugs, or dietary supplements as defined in RCW
37 82.08.0293;

38 (iii) Thermoform plastic containers;

39 (iv) Single-use plastic cups; and

40 (v) Other covered products subject to minimum PCRC requirements.

1 (17) (a) (i) "Postconsumer recycled content" or "PCRC" means the
2 certified plastic resin incorporated into plastic packaging for a
3 PCRC product and derived specifically from recycled material
4 generated by households or by commercial or institutional facilities
5 in their role as end users of packaged products that can no longer be
6 used for their intended purpose.

7 (ii) "PCRC" includes returns of material from the distribution
8 chain.

9 (b) "PCRC" does not include plastic from preconsumer or
10 industrial plastic manufacturing sources.

11 (18) (a) "Postconsumer recycled content product" or "PCRC product"
12 means an item in one of the following categories subject to minimum
13 PCRC requirements under this chapter:

14 (i) Household cleaning products that use plastic household
15 cleaning product containers;

16 (ii) Personal care products that use personal care product
17 containers;

18 (iii) Beverages that use plastic beverage containers;

19 (iv) Plastic tubs for food products;

20 (v) Thermoform plastic containers; and

21 (vi) Single-use plastic cups.

22 (b) "PCRC product" does not include any type of container or bag
23 for which the state is preempted from regulating content of the
24 container material under federal law or any items subject to the
25 postconsumer recycled content requirements of chapter 70A.245 RCW.

26 (19) (a) "Producer" means the following person responsible for
27 compliance with requirements under this chapter for a PCRC product
28 sold, offered for sale, or distributed in or into this state:

29 (i) If the item is sold in or with packaging under the brand of
30 the item manufacturer or is sold in packaging that lacks
31 identification of a brand, the producer is the person that
32 manufactures the item;

33 (ii) If there is no person to which (a) (i) of this subsection
34 applies, the producer is the person that is licensed to manufacture
35 and sell or offer for sale to consumers in this state an item with
36 packaging under the brand or trademark of another manufacturer or
37 person;

38 (iii) If there is no person to which (a) (i) or (ii) of this
39 subsection applies, the producer is the brand owner;

1 (iv) If there is no person described in (a)(i), (ii), or (iii) of
2 this subsection within the United States, the producer is the person
3 who is the importer of record for the item into the United States for
4 use in a commercial enterprise that sells, offers for sale, or
5 distributes the item in this state;

6 (v) If there is no person described in (a)(i) through (iv) of
7 this subsection, the producer is the person that first distributes
8 the item in or into this state;

9 (vi) A person is a "producer" of a PCRC product sold, offered for
10 sale, or distributed in or into this state, as defined in (a)(i)
11 through (v) of this subsection, except where another person has
12 mutually signed an agreement with a producer as defined in (a)(i)
13 through (v) of this subsection that contractually assigns
14 responsibility to the person as the producer, and the person has
15 joined a registered producer responsibility organization as the
16 responsible producer for that PCRC product under this chapter. In the
17 event that another person is assigned responsibility as the producer
18 under this subsection, the producer under (a)(i) through (v) of this
19 subsection must provide written certification of that contractual
20 agreement to the producer responsibility organization; or

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

25 (b) "Producer" does not include:

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

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

30 (iii) De minimis producers.

31 (20) "Producer responsibility organization" has the same meaning
32 as defined in section 102 of this act.

33 (21) "Responsible producer" means a producer that is not a de
34 minimis producer.

35 (22)(a) "Retail establishment" means any person, corporation,
36 partnership, business, facility, vendor, organization, or individual
37 that sells or provides merchandise, goods, or materials directly to a
38 customer.

39 (b) "Retail establishment" includes, but is not limited to, food
40 service businesses as defined in RCW 70A.245.010, grocery stores,

1 department stores, hardware stores, home delivery services,
2 pharmacies, liquor stores, restaurants, catering trucks, convenience
3 stores, or other retail stores or vendors, including temporary stores
4 or vendors at farmers markets, street fairs, and festivals.

5 (23) (a) "Single-use plastic cup" means all beverage cups that are
6 nonsealed or sealed at point of sale.

7 (b) "Single-use plastic cups" do not include:

8 (i) Commercially or home compostable cups;

9 (ii) Expanded polystyrene cups;

10 (iii) Thermoform plastic containers; or

11 (iv) Composite plastic-lined fiber cups.

12 (24) (a) "Thermoform plastic container" means a clear or colored
13 plastic container, such as a clamshell, lid, tray, egg carton,
14 trifold, or similar rigid, nonbottle packaging, formed from sheets of
15 extruded plastic resin and used to package consumable or durable
16 goods that reach consumers, including:

17 (i) Branded and prepackaged containers that have been filled with
18 products and sealed prior to receipt by the retail establishment,
19 such as fresh produce, baked goods, nuts, toys, electronics, and
20 tools;

21 (ii) Containers that may be filled at the point of sale at a
22 retail establishment; and

23 (iii) Unfilled containers that are sold directly.

24 (b) "Thermoform plastic container" includes:

25 (i) Hinged plastic containers, commonly known as "clamshells" or
26 "blister packaging";

27 (ii) Two-piece unhinged containers;

28 (iii) One-piece containers without lids, such as trays; and

29 (iv) Trifold or tent containers with one or more hinges and a
30 flat bottom.

31 (c) "Thermoform plastic container" does not include:

32 (i) Household cleaning products or personal care products;

33 (ii) Plastic tubs;

34 (iii) Reusable containers;

35 (iv) A lid or seal of a different material type from plastic;

36 (v) A reusable thermoform plastic container that ordinarily would
37 be returned to the manufacturer to be refilled and resold;

38 (vi) Plastic containers that are or are used for medical devices,
39 medical products that are required to be sterile, prescription or

1 nonprescription drugs, or dietary supplements as defined in RCW
2 82.08.0293;

3 (vii) Commercially or home compostable containers;

4 (viii) Other PCRC products; and

5 (ix) Thermoform plastic containers accompanying a durable good
6 when the durable good model, and the associated packaging, was
7 designed prior to January 1, 2029.

8 NEW SECTION. **Sec. 202.** DE MINIMIS PRODUCERS. (1) For purposes
9 of determining whether a producer is a de minimis producer, the
10 weight and revenue definitional thresholds must be calculated at the
11 level of the "entity" associated with the PCRC product by a producer
12 responsibility organization.

13 (2) The exemptions under this chapter for de minimis producers do
14 not apply to entities that have agreed to accept responsibility for
15 compliance with the requirements of this chapter for a PCRC product
16 on the behalf of another producer.

17 (3) (a) De minimis producers are not required to meet annual
18 registration, reporting, PCRC, or fee requirements of PCRC products
19 under this chapter.

20 (b) De minimis producers must annually notify the producer
21 responsibility organization in which the producer participates to
22 demonstrate that they are de minimis producers.

23 (4) A producer responsibility organization may demand from
24 participating producers and must submit to the department information
25 necessary to verify whether a producer qualifies for the de minimis
26 status, including:

27 (a) Annual global gross revenue dollar amount less than or equal
28 to \$5,000,000;

29 (b) Annual total resin weight less than or equal to one ton; and

30 (c) Any additional information requested by the department.

31 NEW SECTION. **Sec. 203.** PCRC REQUIREMENTS FOR PCRC PRODUCTS.

32 (1) (a) By January 1, 2026, and each January 1st thereafter, a
33 producer responsibility organization under chapter 70A.--- RCW (the
34 new chapter created in section 501 of this act) that represents
35 producers who offers for sale, sells, or distributes in or into
36 Washington PCRC products must register with the department on behalf
37 of each producer registered with the producer responsibility
38 organization with sale or distribution of PCRC products in or into

1 Washington. A producer must continue to register and report to the
2 department and pay the department an annual fee under the methods
3 established in chapter 70A.245 RCW, as it existed as of January 1,
4 2024, until a producer responsibility organization registers with the
5 department under chapter 70A.--- RCW (the new chapter created in
6 section 501 of this act), after which time each producer of PCRC
7 products must either join a registered producer responsibility
8 organization and comply with the requirements of this chapter through
9 that producer responsibility organization, or must register with the
10 department as an individual producer responsibility organization for
11 purposes of compliance with chapter 70A.--- RCW (the new chapter
12 created in section 501 of this act) and this chapter.

13 (b) The registration information submitted under (a) of this
14 subsection must include a list of the producers of PCRC products and
15 the associated brand names of the PCRC products represented in the
16 registration submittal.

17 (c) A producer may report multiple brand employer identification
18 numbers under a single account to the producer responsibility
19 organization, provided that required information for each brand
20 employer identification number is listed separately.

21 (2) Producers that offer for sale, sell, or distribute in or into
22 Washington the following products must meet the following minimum
23 postconsumer recycled content requirements for products manufactured
24 by the following dates:

25 (a) Beginning January 1, 2023, producers of beverages other than
26 wine in 187 milliliter plastic beverage containers and dairy milk in
27 plastic beverage containers must meet minimum PCRC requirements
28 established under section 204 of this act.

29 (b) Beginning January 1, 2025, producers of household cleaning
30 products or personal care products in plastic household cleaning
31 product containers or plastic personal care product containers must
32 meet minimum PCRC requirements as required under section 205 of this
33 act.

34 (c) Beginning January 1, 2027, producers of plastic tubs used for
35 food products must meet minimum PCRC requirements established under
36 section 206 of this act.

37 (d) Beginning January 1, 2028, producers of wine in 187
38 milliliter plastic beverage containers or dairy milk in plastic
39 beverage containers must meet minimum PCRC requirements established
40 under section 204 of this act.

1 (e) Beginning January 1, 2029, producers of single-use plastic
2 cups must meet minimum PCRC requirements established under section
3 207 of this act.

4 (f) Beginning January 1, 2031, producers of thermoform plastic
5 containers, except those containing durable goods, must meet minimum
6 PCRC requirements established under section 208 of this act.

7 (g) Beginning January 1, 2036, producers of durable goods in
8 thermoform plastic containers must meet minimum PCRC requirements
9 established under section 208 of this act.

10 (3)(a) In addition to the registration information submitted
11 under subsection (1) of this section, each producer of a PCRC product
12 must annually report PCRC to the producer responsibility organization
13 with which it is registered, beginning on the following dates:

14 (i) No later than 30 days after the registration of a producer
15 with a producer responsibility organization under subsection (1)(a)
16 of this section, for plastic beverage containers other than plastic
17 dairy milk containers and 187 milliliter plastic wine containers;

18 (ii) February 1, 2026, for plastic household cleaning product
19 containers and plastic personal care product containers;

20 (iii) February 1, 2027, for plastic tubs used for food products;

21 (iv) February 1, 2029, for plastic dairy milk containers and 187
22 milliliter plastic wine containers;

23 (v) February 1, 2030, for single-use plastic cups;

24 (vi) February 1, 2032, for thermoform plastic containers except
25 those containing durable goods; and

26 (vii) February 1, 2037, for thermoform plastic containers
27 containing durable goods.

28 (b) Producer PCRC annual reports to the producer responsibility
29 organization must include:

30 (i) The amount in pounds of virgin plastic and the amount in
31 pounds of PCRC by resin type used within a single PCRC product
32 category sold, offered for sale, or distributed in or into
33 Washington;

34 (ii) The total PCRC resin as a percentage of the total weight of
35 plastic reported for a single PCRC product category, or other metrics
36 approved by the department; and

37 (iii) Any other information deemed necessary by the department to
38 ensure an effective program that is in compliance with all applicable
39 laws and rules.

1 NEW SECTION. **Sec. 204.** PCRC REQUIREMENTS FOR PLASTIC BEVERAGE
2 CONTAINERS. A producer of a beverage in a plastic beverage container
3 must meet the following annual minimum PCRC percentage on average for
4 the total quantity of plastic beverage containers, by weight, that
5 are sold, offered for sale, or distributed in or into Washington by
6 the producer effective:

7 (1) For beverages except wine in 187 milliliter plastic beverage
8 containers and dairy milk:

9 (a) For products manufactured between January 1, 2023, through
10 December 31, 2025: No less than 15 percent PCRC plastic by weight;

11 (b) For products manufactured between January 1, 2026, through
12 December 31, 2030: No less than 25 percent PCRC plastic by weight;
13 and

14 (c) Products manufactured on and after January 1, 2031: No less
15 than 50 percent PCRC plastic by weight.

16 (2) For wine in 187 milliliter plastic beverage containers and
17 dairy milk:

18 (a) Products manufactured between January 1, 2028, through
19 December 31, 2030: No less than 15 percent PCRC plastic by weight;

20 (b) Products manufactured between January 1, 2031, through
21 December 31, 2035: No less than 25 percent PCRC plastic by weight;
22 and

23 (c) Products manufactured on and after January 1, 2036: No less
24 than 50 percent PCRC plastic by weight.

25 NEW SECTION. **Sec. 205.** PCRC REQUIREMENTS FOR HOUSEHOLD CLEANING
26 PRODUCTS AND PERSONAL CARE PRODUCTS. A producer of household cleaning
27 products in plastic containers or a producer of personal care
28 products in plastic containers must meet the following annual minimum
29 PCRC percentage on average for the total quantity of plastic
30 containers, by weight, that are sold, offered for sale, or
31 distributed in or into Washington by the producer effective:

32 (1) Products manufactured between January 1, 2025, through
33 December 31, 2027: No less than 15 percent PCRC plastic by weight;

34 (2) Products manufactured between January 1, 2028, through
35 December 31, 2030: No less than 25 percent PCRC plastic by weight;
36 and

37 (3) Products manufactured on and after January 1, 2031: No less
38 than 50 percent PCRC plastic by weight.

1 NEW SECTION. **Sec. 206.** PCRC REQUIREMENTS FOR PLASTIC TUBS FOR
2 FOOD PRODUCTS. A producer of plastic tubs must meet the following
3 annual minimum PCRC percentage on average for the total quantity of
4 plastic tubs used for food products, by weight, that are sold,
5 offered for sale, or distributed in or into Washington by the
6 producer effective:

7 (1) Products manufactured between January 1, 2027, through
8 December 31, 2030: No less than 10 percent PCRC plastic by weight;
9 and

10 (2) Products manufactured on and after January 1, 2031: No less
11 than 30 percent PCRC plastic by weight.

12 NEW SECTION. **Sec. 207.** PCRC REQUIREMENTS FOR SINGLE-USE PLASTIC
13 CUPS. A producer of single-use plastic cups must meet the following
14 annual minimum PCRC percentage on average for the total quantity of
15 single-use plastic cups, by weight, that are sold, offered for sale,
16 or distributed in or into Washington by the producer effective:

17 (1) For polypropylene single-use plastic cups:

18 (a) Products manufactured between January 1, 2029, through
19 December 31, 2030: No less than 15 percent PCRC plastic by weight;
20 and

21 (b) Products manufactured on and after January 1, 2031: No less
22 than 25 percent PCRC plastic by weight.

23 (2) For polyethylene terephthalate and polystyrene, and other
24 types of single-use plastic cups:

25 (a) Products manufactured between January 1, 2029, through
26 December 31, 2030: No less than 20 percent PCRC plastic by weight;
27 and

28 (b) Products manufactured on and after January 1, 2031: No less
29 than 30 percent PCRC plastic by weight.

30 NEW SECTION. **Sec. 208.** PCRC REQUIREMENTS FOR THERMOFORM PLASTIC
31 CONTAINERS. A producer of a thermoform plastic container must meet
32 the following annual minimum PCRC percentage on average for the total
33 quantity of thermoform plastic containers, by weight, that are sold,
34 offered for sale, or distributed in or into Washington by the
35 producer effective:

36 (1) For packaging for consumable goods:

1 (a) Products manufactured between January 1, 2031, through
2 December 31, 2035: No less than 10 percent PCRC plastic by weight;
3 and

4 (b) Products manufactured on and after January 1, 2036: No less
5 than 30 percent PCRC plastic by weight.

6 (2)(a) Except as provided in (b) of this subsection, for
7 packaging used for durable goods: Products manufactured on and after
8 January 1, 2036, no less than 30 percent PCRC plastic by weight.

9 (b) Packaging designed to accompany a durable good where that
10 durable good model is designed prior to the effective date of the
11 requirement in (a) of this subsection is exempt.

12 NEW SECTION. **Sec. 209.** PCRC REPORTING BY PRODUCER
13 RESPONSIBILITY ORGANIZATIONS. (1) A producer responsibility
14 organization reporting to the department under this chapter must pay
15 fees as specified in chapter 70A.--- RCW (the new chapter created in
16 section 501 of this act).

17 (2) Beginning July 1, 2026, and each July 1st thereafter, a
18 producer responsibility organization must annually report to the
19 department for each producer of PCRC products for which it receives
20 reports from producers under section 203 of this act:

21 (a) The amount in pounds of virgin plastic resin;

22 (b) The amount in pounds of PCRC by resin type used for each
23 category of PCRC products that are sold, offered for sale, or
24 distributed in or into Washington;

25 (c) The total PCRC resins as a percentage of total weight;

26 (d) Pounds of imported PCRC by country of origin;

27 (e) Any other information necessary to fulfill the intent of this
28 chapter, as required by rule adopted by the department.

29 (3)(a) The report must be submitted in a format and manner
30 prescribed by the department. A producer may submit national or
31 regional data allocated on a per capita basis for Washington to
32 approximate the information required in this section if the producer
33 or third-party representative demonstrates to the department that
34 state level data are not available or feasible to generate.

35 (b)(i) A producer must maintain a certificate of compliance for
36 purposes of oversight by the department identifying each PCRC product
37 of the producer that is in compliance with postconsumer requirements
38 under this chapter. No later than six months prior to the initial
39 effective dates of the requirements of sections 203 through 208 of

1 this act, a producer responsibility organization shall evaluate if
2 there are adequate and commercial feasible third-party certifications
3 for PCRC for each PCRC product category with requirements and report
4 to the department on the adequacy of these certifications with a
5 recommendation for their adoption. The department shall have 30 days
6 to respond to the producer responsibility organization to approve,
7 partially approve, deny, or request additional information on their
8 recommendation.

9 (ii) If adequate third-party certifications are deemed to exist
10 by the producer responsibility organization and the department, the
11 certificate of compliance must be conducted by a third-party
12 certification entity, stating that the PCRC product is in compliance
13 with postconsumer recycled content requirements under this chapter. A
14 third-party certification entity must be an independent, accredited
15 (ISO/IEC 17065) certifying body. A producer shall maintain a
16 certificate of compliance within a year by the dates on which the
17 postconsumer recycled content requirements take effect for the
18 producer's PCRC products.

19 (iii) If no adequate third-party certifications are deemed to
20 exist by the producer responsibility organization and the department,
21 the department may request a producer responsibility organization to
22 reevaluate the availability of certification programs at a future
23 time.

24 (c) If compliance with minimum recycled content requirements is
25 achieved through an adjustment or temporary exclusion made pursuant
26 to section 210 of this act, the certificate must state the specific
27 basis upon which the adjustment or temporary exclusion is claimed.

28 (d) The certificate of compliance must be kept on file by the
29 producer for three years from the date of the last sale or
30 distribution by the producer.

31 (e) A producer must furnish a certificate of compliance to the
32 department upon request within 60 days.

33 (f) Requests from a member of the public for any certificate of
34 compliance must be made in writing to the department and must be
35 specific as to the PCRC product information requested. The department
36 must respond to requests from a member of the public under this
37 subsection within 90 days.

38 (g) If a person is required under any other state statute,
39 including chapter 70A.222 RCW, to provide a certificate of

1 compliance, one certificate may be developed containing all required
2 information.

3 (h) If the producer of the PCRC product reformulates or creates a
4 new PCRC product, the producer shall develop an amended or new
5 certificate of compliance for the reformulated or new PCRC product.

6 (4) (a) A producer responsibility organization may, as part of the
7 annual report submitted to the department in February of each year
8 under this section, or as a separate submission in February of each
9 year in advance of the effective dates in sections 204 through 208 of
10 this act, petition for an extension, temporary exclusion, or
11 adjustment under section 210 of this act covering the upcoming
12 calendar year to the minimum PCRC requirements on behalf of producers
13 registered with the producer responsibility organization.

14 (b) When submitting a petition for a PCRC rate extension, the
15 producer responsibility organization must provide necessary
16 information that will allow the department to make a determination
17 based on the factors listed in section 210(2) of this act.

18 (c) When submitting a petition for a PCRC rate adjustment, the
19 producer responsibility organization must provide necessary
20 information that will allow the department to make a determination
21 based on the factors listed in section 210(3) of this act.

22 (d) When submitting a petition for a PCRC rate temporary
23 exclusion, the producer responsibility organization must provide
24 necessary information that will allow the department to make a
25 determination based on the factors listed in section 210(5) of this
26 act.

27 (5) The department must review and determine whether to approve
28 PCRC reports under this section and petitions under section 210 of
29 this act submitted by producer responsibility organizations. The
30 department must:

31 (a) Make PCRC reports submitted under this section, including
32 petitions for exclusions or rate adjustments under section 210 of
33 this act regardless of the timing of petition submission, available
34 for public review and comment for at least 30 days upon the receipt
35 of the annual report or petition by the department;

36 (b) Make a determination as to whether or not an annual report
37 meets the requirements of this section or a separately submitted
38 petition meets the requirements of section 210 of this act and notify
39 the producer responsibility organization of the:

1 (i) Determination of approval of the PCRC annual report or a
2 separately submitted petition for a rate adjustment or temporary
3 exclusion; or

4 (ii) Reasons for not approving the PCRC annual report or
5 separately submitted petition. The producer responsibility
6 organization must submit a revised PCRC annual report within 60 days
7 after receipt of the letter of disapproval.

8 (6) The department must post approved PCRC annual reports or a
9 separately submitted petition submitted by each producer
10 responsibility organization under this section on its website.

11 NEW SECTION. **Sec. 210.** EXTENSIONS, ADJUSTMENTS, AND TEMPORARY
12 EXCLUSIONS TO PCRC RATES. (1) In response to a petition received from
13 the producer responsibility organization under section 209 of this
14 act, the department has 60 days to review and determine for the
15 following calendar year whether to extend, adjust, or temporarily
16 exclude the minimum PCRC percentage required for a type of container
17 or PCRC product or category of PCRC products under this chapter.

18 (2) PCRC rate extensions may only be requested for the PCRC
19 requirements in sections 204 (1)(c) and (2)(c), 205(3), 206(2), 207
20 (1)(b) and (2)(b), and 208(1)(b) of this act. The producer
21 responsibility organization must include an assessment of market
22 conditions and PCRC availability and the technological feasibility of
23 these requirements. The department must consider these factors in the
24 assessment in making a determination to extend a PCRC rate pursuant
25 to subsection (1) of this section.

26 (3)(a) Petitions for a rate adjustment must include credible
27 evidence on the pertinent following factors, and when making their
28 determination, the department must consider, at a minimum:

29 (i) Changes in market conditions, including supply and demand for
30 PCRC plastics, collection rates, and bale availability both
31 domestically and globally;

32 (ii) Recycling rates;

33 (iii) The availability of recycled plastic suitable to meet the
34 minimum PCRC requirements, including the availability of high quality
35 recycled plastic, and food-grade recycled plastic from recycling
36 programs;

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

38 (v) The technical feasibility of achieving the minimum PCRC
39 requirements in PCRC products that are regulated under 21 C.F.R.,

1 chapter I, subchapter G, 7 U.S.C. Sec. 136, 15 U.S.C. Sec. 1471-1477,
2 49 C.F.R. Sec. 178.33b, 49 C.F.R. Sec. 173, 40 C.F.R. Sec. 152.10, 15
3 U.S.C. Sec. 1261-1278, 49 U.S.C. Sec. 5101 et seq., 49 C.F.R. Sec.
4 178.509, 49 C.F.R. Sec. 179.522, 49 C.F.R. Sec. 178.600-609, and
5 other federal laws; and

6 (vi) The progress made by producers in achieving the goals of
7 this chapter.

8 (b) The department may not adjust the minimum PCRC requirements
9 above the minimum PCRC percentages under sections 204, 206, 207, and
10 208 of this act for the year under review.

11 (c) For plastic household cleaning product containers and plastic
12 personal care product containers, the department may not adjust the
13 minimum PCRC requirements above the minimum PCRC percentages for the
14 year under review required pursuant to section 205 of this act or
15 below a minimum of 10 percent.

16 (4) A producer responsibility organization may submit a petition
17 to the department for a temporary exclusion from minimum PCRC
18 requirements for any types of PCRC products in plastic containers
19 providing credible evidence that the producer cannot achieve the PCRC
20 requirements and remain in compliance with applicable rules and
21 regulations adopted by the United States food and drug
22 administration, or any other state or federal law, rule, or
23 regulation, or achievement of PCRC requirements in the container
24 material is not technologically feasible.

25 (5) (a) The department shall review extension, adjustment, and
26 temporary exclusion requests from the producer responsibility
27 organization within 60 days of the request and approve, partially
28 approve, deny, or request additional information to evaluate the
29 extension request.

30 (b) The department may renew an approved extension, adjustment,
31 or temporary exclusion annually, upon request of the producer
32 responsibility organization and submission of data demonstrating that
33 the conditions justifying the current extension, adjustment, or
34 temporary exclusion remain in place.

35 (c) If an extension, adjustment, or temporary exclusion is
36 granted, the producer responsibility organization may include in its
37 annual report, any potential need to revise these requirements, prior
38 to the expiration of an extension period.

39 (6) A producer responsibility organization must continue to
40 provide producer registration data and report consistent with the

1 requirements of this chapter for PCRC products granted an extension,
2 adjustment, or temporarily exclusion from minimum PCRC requirements
3 under this subsection.

4 (7) A producer or producer responsibility organization may appeal
5 a decision by the department to extend or adjust PCRC percentages
6 under this section or to temporarily exclude PCRC products from
7 minimum PCRC requirements under subsection (4) of this section to the
8 pollution control hearings board within 30 days of the department's
9 determination.

10 NEW SECTION. **Sec. 211.** ADMINISTRATIVE ROLE AND ENFORCEMENT BY
11 THE DEPARTMENT. (1)(a) A producer that does not pay fees, register,
12 report, or achieve the PCRC requirements established under this
13 chapter is subject to the penalties provided in this section.

14 (b) A producer responsibility organization that does meet the
15 registration, fee payment, or reporting requirements under this
16 chapter is subject to the provisions provided in section 123 of this
17 act.

18 (2)(a) A producer assessed a penalty pursuant to this chapter
19 must remit the penalty to the producer responsibility organization
20 with which it is registered. A producer responsibility organization
21 must submit aggregated penalty payments comprised of the remitted
22 penalty payments from all producers owing penalties under this
23 chapter that are members of the producer responsibility organization.
24 The producer responsibility organization's aggregated payment may be
25 a single annual payment, paid in quarterly installments, or on an
26 alternative payment schedule arranged subject to the approval of the
27 department. The department may not approve an alternative payment
28 schedule that exceeds a 12-month time frame unless the department
29 determines that an extension is needed due to unforeseen
30 circumstances, such as a public health emergency, state of emergency,
31 or natural disaster.

32 (b) Beginning June 1st of the year following the first year that
33 minimum PCRC requirements apply to a category of PCRC product, and
34 annually thereafter, the department must determine the penalty for
35 the previous calendar year based on the PCRC requirement of the
36 previous calendar year. The department shall calculate the amount of
37 the penalty based upon the amount in pounds in the aggregate of
38 virgin plastic, PCRC plastic, and any other plastic per category used

1 by the producer to produce PCRC products sold or offered for sale in
2 or into Washington, in accordance with the following:

3 (i) (A) Based on data provided in the annual report submitted
4 under section 209 of this act by a producer responsibility
5 organization, the annual penalty amount assessed to a producer must
6 equal the product of both of the following: The total pounds of
7 plastic used per category multiplied by the relevant minimum PCRC
8 plastic target percentage, less the pounds of total plastic
9 multiplied by the percent of PCRC plastic used; multiplied by 20
10 cents.

11 (B) Example: [(Total pounds of plastic used x minimum PCRC
12 plastic target percentage) - (Total pounds of plastic used x PCRC
13 plastic percentage used)] x 20 cents.

14 (ii) For the purposes of (b) (i) of this subsection, both of the
15 following apply:

16 (A) The total pounds of plastic used must equal the sum of the
17 amount of virgin plastic, PCRC plastic, and any other plastic used by
18 the producer, as reported pursuant to section 209 of this act;

19 (B) If the mathematical product calculated pursuant to (b) (i) of
20 this subsection is equal to or less than zero, the department may not
21 assess a penalty.

22 (3) (a) Upon request by a producer responsibility organization,
23 the department must consider granting a reduction of penalties
24 assessed under this section for a producer's failure to achieve PCRC
25 requirements established in this chapter. Penalty reduction requests
26 under this subsection must be submitted to the department by August
27 1st of each year. A producer responsibility organization's request to
28 the department must contain sufficient information described in (b)
29 of this subsection to allow the department to determine whether to
30 grant the request.

31 (b) In determining whether to grant a penalty reduction, the
32 department must consider, at minimum, all of the following factors:

33 (i) Anomalous market conditions;
34 (ii) Disruption in, or lack of supply of, recycled plastics; and
35 (iii) Other factors that have prevented a producer from meeting
36 the minimum PCRC requirements of this chapter.

37 (c) In lieu of or in addition to assessing a penalty under this
38 section, the department may require a producer responsibility
39 organization to submit on behalf of a producer or group of producers

1 a corrective action plan detailing how the producer or producers plan
2 to come into compliance with this chapter.

3 (4) For purposes of determining compliance with the PCRC
4 requirements of this chapter, the department may consider information
5 provided by the producer responsibility organization regarding the
6 date of manufacture of a PCRC product or the container of a PCRC
7 product.

8 (5)(a) A producer or a producer responsibility organization may
9 appeal penalties assessed and orders issued under this chapter to the
10 pollution control hearings board within 30 days of penalty assessment
11 or order issuance.

12 (b) Penalties collected under this section must be deposited in
13 the recycling enhancement account created in RCW 70A.245.100.

14 (6)(a) A city, town, county, or municipal corporation may not
15 implement local recycled content requirements for a PCRC product that
16 is subject to minimum PCRC requirements established in this chapter.

17 (b) A city, town, county, or municipal corporation may establish
18 local purchasing requirements that include recycled content standards
19 that exceed the minimum recycled content requirements established by
20 this chapter for plastic household cleaning product containers and
21 plastic personal care product containers purchased by a city, town,
22 or municipal corporation, or its contractor.

23 (7) In-state distributors, wholesalers, and retail establishments
24 in possession of PCRC products manufactured before the date that PCRC
25 requirements become effective may exhaust their existing stock
26 through sales to the public.

27 NEW SECTION. **Sec. 212.** RULE-MAKING AUTHORITY. The department
28 may adopt rules as necessary to implement, administer, and enforce
29 this chapter.

30 **Sec. 213.** RCW 70A.245.010 and 2021 c 313 s 2 are each amended to
31 read as follows:

32 The definitions in this section apply throughout this chapter
33 unless the context clearly requires otherwise.

34 (1) "Beverage" means beverages identified in (a) through (f) of
35 this subsection, intended for human or animal consumption, and in a
36 quantity more than or equal to two fluid ounces and less than or
37 equal to one gallon:

38 (a) Water and flavored water;

1 (b) Beer or other malt beverages;

2 (c) Wine;

3 (d) Distilled spirits;

4 (e) Mineral water, soda water, and similar carbonated soft
5 drinks; and

6 (f) Any beverage other than those specified in (a) through (e) of
7 this subsection, except infant formula as defined in 21 U.S.C. Sec.
8 321(z), medical food as defined in 21 U.S.C. Sec. 360ee(b)(3), or
9 fortified oral nutritional supplements used for persons who require
10 supplemental or sole source (~~nutritional needs due to special
11 dietary needs directly related to cancer, chronic kidney disease,
12 diabetes~~) nutrition to meet nutritional needs due to special dietary
13 needs directly related to cancer, chronic kidney disease, diabetes,
14 malnutrition, or failure to thrive, as those terms are defined by the
15 international classification of diseases, 10th revision, or other
16 medical conditions as determined by the department.

17 (2) "Beverage manufacturing industry" means an association that
18 represents beverage producers.

19 (3) "Condiment packaging" means packaging used to deliver single-
20 serving condiments to customers. Condiment packaging includes, but is
21 not limited to, single-serving packaging for ketchup, mustard,
22 relish, mayonnaise, hot sauce, coffee creamer, salad dressing, jelly,
23 jam, and soy sauce.

24 (4) (a) "Covered product" means an item in one of the following
25 categories subject to minimum postconsumer recycled content
26 requirements:

27 (i) Plastic trash bags;

28 (ii) Household cleaning and personal care products that use
29 plastic household cleaning and personal care product containers; and

30 (iii) Beverages that use plastic beverage containers.

31 (b) "Covered product" does not include any type of container or
32 bag for which the state is preempted from regulating content of the
33 container material or bag material under federal law.

34 (5) "Dairy milk" means a beverage that designates milk as the
35 predominant (first) ingredient in the ingredient list on the
36 container's label.

37 (6) "Department" means the department of ecology.

38 (7) "Expanded polystyrene" means blown polystyrene and expanded
39 and extruded foams that are thermoplastic petrochemical materials
40 utilizing a styrene monomer and processed by any number of techniques

1 including (~~(, but not limited to,)~~) fusion of polymer spheres
2 (expandable bead polystyrene), injection molding, foam molding, and
3 extrusion-blow molding (extruded foam polystyrene).

4 (8) "Food service business" means a business selling or providing
5 food for consumption on or off the premises, and includes full-
6 service restaurants, fast food restaurants, cafes, delicatessens,
7 coffee shops, grocery stores, vending trucks or carts, home delivery
8 services, delivery services provided through an online application,
9 and business or institutional cafeterias.

10 (9) "Food service product" means a product intended for one-time
11 use and used for food or drink offered for sale or use. Food service
12 products include, but are not limited to, containers, plates, bowls,
13 cups, lids, beverage containers, meat trays, deli rounds, utensils,
14 sachets, straws, condiment packaging, clamshells and other hinged or
15 lidded containers, wrap, and portion cups.

16 (10) "Household cleaning and personal care product" means any of
17 the following:

18 (a) Laundry detergents, softeners, and stain removers;

19 (b) Household cleaning products;

20 (c) Liquid soap;

21 (d) Shampoo, conditioner, styling sprays and gels, and other hair
22 care products; or

23 (e) Lotion, moisturizer, facial toner, and other skin care
24 products.

25 (11) (~~("Household cleaning and personal care product~~
26 ~~manufacturing industry" means an association that represents~~
27 ~~companies that manufacture household cleaning and personal care~~
28 ~~products.~~

29 ~~(12))~~ (12) "Licensee" means a manufacturer of a certified PCRC
30 product or entity who licenses a brand and manufactures a covered
31 product or certified PCRC product under that brand.

32 (~~(13))~~ (13) "Oral nutritional supplement" means a manufactured
33 liquid, powder capable of being reconstituted, or solid product that
34 contains a combination of carbohydrates, proteins, fats, fiber,
35 vitamins, and minerals intended to supplement a portion of a
36 patient's nutrition intake.

37 (~~(14))~~ (14) "Plastic beverage container" means a bottle or
38 other rigid container that is capable of maintaining its shape when
39 empty, comprised solely of one or multiple plastic resins designed to
40 contain a beverage. Plastic beverage container does not include:

1 (a) Refillable beverage containers, such as containers that are
2 sufficiently durable for multiple rotations of their original or
3 similar purpose and are intended to function in a system of reuse;

4 (b) Rigid plastic containers or plastic bottles that are or are
5 used for medical devices, medical products that are required to be
6 sterile, nonprescription and prescription drugs, or dietary
7 supplements as defined in RCW 82.08.0293;

8 (c) Bladders or pouches that contain wine; or

9 (d) Liners, caps, corks, closures, labels, and other items added
10 externally or internally but otherwise separate from the structure of
11 the bottle or container.

12 (~~(15)~~) (14) (a) "Plastic household cleaning and personal care
13 product container" means a bottle, jug, or other rigid container with
14 a neck or mouth narrower than the base, and:

15 (i) A minimum capacity of eight fluid ounces or its equivalent
16 volume;

17 (ii) A maximum capacity of five fluid gallons or its equivalent
18 volume;

19 (iii) That is capable of maintaining its shape when empty;

20 (iv) Comprised solely of one or multiple plastic resins; and

21 (v) Containing a household cleaning or personal care product.

22 (b) "Plastic household cleaning and personal care product
23 container" does not include:

24 (i) Refillable household cleaning and personal care product
25 containers, such as containers that are sufficiently durable for
26 multiple rotations of their original or similar purpose and are
27 intended to function in a system of reuse; and

28 (ii) Rigid plastic containers or plastic bottles that are medical
29 devices, medical products that are required to be sterile, and
30 nonprescription and prescription drugs, dietary supplements as
31 defined in RCW 82.08.0293, and packaging used for those products.

32 (~~(16)~~) (15) "Plastic trash bag" means a bag that is made of
33 noncompostable plastic, is at least 0.70 mils thick, and is designed
34 and manufactured for use as a container to hold, store, or transport
35 materials to be discarded or recycled, and includes, but is not
36 limited to, a garbage bag, recycling bag, lawn or leaf bag, can liner
37 bag, kitchen bag, or compactor bag. "Plastic trash bag" does not
38 include any compostable bags meeting the requirements of chapter
39 70A.455 RCW. "Plastic trash bag" does not include any reusable

1 plastic carryout bag meeting the requirements of RCW
2 70A.530.020(6)(b).

3 ~~((17) "Plastic trash bag))~~ (16) "Certified PCRC product
4 manufacturing industry" means an association that represents
5 companies that manufacture ~~((plastic trash bags))~~ a certified PCRC
6 product.

7 ~~((18))~~ (17) "Postconsumer recycled content" means the content
8 of a ~~((covered product))~~ certified PCRC product made of recycled
9 materials derived specifically from recycled material generated by
10 households or by commercial, industrial, and institutional facilities
11 in their role as end users of a product that can no longer be used
12 for its intended purpose. "Postconsumer recycled content" includes
13 returns of material from the distribution chain.

14 ~~((19))~~ (18) (a) "Producer" means the following person
15 responsible for compliance with minimum postconsumer recycled content
16 requirements under this chapter for a covered product ~~((sold, offered~~
17 ~~for sale, or distributed in or into this state:~~

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

21 ~~(ii) If the covered product is manufactured by a person other~~
22 ~~than the brand owner, the producer is the person who is the licensee~~
23 ~~of a brand or trademark under which a covered product is sold,~~
24 ~~offered for sale, or distributed in or into this state, whether or~~
25 ~~not the trademark is registered in this state, unless the~~
26 ~~manufacturer or brand owner of the covered product has agreed to~~
27 ~~accept responsibility under this chapter; or~~

28 ~~(iii) If there is no person described in (a)(i) and (ii) of this~~
29 ~~subsection over whom the state can constitutionally exercise~~
30 ~~jurisdiction, the producer is the person who imports or distributes~~
31 ~~the covered product in or into the state))~~ or certified PCRC product
32 sold, offered for sale, or distributed in or into this state:

33 (i) If the product is sold in or with packaging under the brand
34 of the item manufacturer or is sold in packaging that lacks
35 identification of a brand, the producer is the person that
36 manufactures the product;

37 (ii) If there is no person to which (a)(i) of this subsection
38 applies, the producer is the person that is licensed to manufacture
39 and sell or offer for sale to consumers in this state an item with

1 packaging under the brand or trademark of another manufacturer or
2 person;

3 (iii) If there is no person to which (a)(i) or (ii) of this
4 subsection applies, the producer is the brand owner;

5 (iv) If there is no person described in (a)(i), (ii), or (iii) of
6 this subsection within the United States, the producer is the person
7 who is the importer of record for the item into the United States for
8 use in a commercial enterprise that sells, offers for sale, or
9 distributes the product in this state; or

10 (v) If there is no person described in (a)(i) through (iv) of
11 this subsection, the producer is the person that first distributes
12 the item in or into this state.

13 (b)(i) A person is a "producer" of a covered product or certified
14 PCRC product sold, offered for sale, or distributed in or into this
15 state, as defined in (a)(i) through (v) of this subsection, except
16 where another person has mutually signed an agreement with a producer
17 as defined in (a)(i) through (v) of this subsection that
18 contractually assigns responsibility to the person as the producer,
19 and the person has joined a registered producer responsibility
20 organization as the responsible producer for that covered product or
21 certified PCRC product under this chapter. In the event that another
22 person is assigned responsibility as the producer under this
23 subsection, the producer under (a)(i) through (v) of this subsection
24 must provide written certification of that contractual agreement to
25 the producer responsibility organization;

26 (ii) If the producer described in (a)(i) through (v) of this
27 subsection is a business operated wholly or in part as a franchise,
28 the producer is the franchisor, if that franchisor has franchisees
29 that have a commercial presence within the state.

30 ~~((b))~~ (c) "Producer" does not include:

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

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

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

37 ~~(A) Less than one ton of a single category of plastic beverage~~
38 ~~containers, plastic household cleaning and personal care containers,~~
39 ~~or plastic trash bags each year; or~~

1 ~~(B) A single category of a covered product that in aggregate~~
2 ~~generates less than \$1,000,000 each year in revenue))~~ For covered
3 products, de minimis producers as defined in section 102 of this act.

4 ~~((20))~~ (19) (a) "Retail establishment" means any person,
5 corporation, partnership, business, facility, vendor, organization,
6 or individual that sells or provides merchandise, goods, or materials
7 directly to a customer.

8 (b) "Retail establishment" includes, but is not limited to, food
9 service businesses, grocery stores, department stores, hardware
10 stores, home delivery services, pharmacies, liquor stores,
11 restaurants, catering trucks, convenience stores, or other retail
12 stores or vendors, including temporary stores or vendors at farmers
13 markets, street fairs, and festivals.

14 ~~((21))~~ (20) (a) "Utensil" means a product designed to be used by
15 a consumer to facilitate the consumption of food or beverages,
16 including knives, forks, spoons, cocktail picks, chopsticks, splash
17 sticks, and stirrers.

18 (b) "Utensil" does not include plates, bowls, cups, and other
19 products used to contain food or beverages.

20 (21) "Certified postconsumer recycled content product" or
21 "certified PCRC product" means:

22 (a) Plastic household cleaning products or personal care
23 products, as defined in section 201 of this act, that are pesticide
24 products regulated by the federal insecticide, fungicide, and
25 rodenticide act, 7 U.S.C. Sec. 136 et seq., that are in direct
26 contact with the regulated product, and that are excluded from the
27 requirements of chapters 70A.--- (the new chapter created in section
28 501 of this act) and 70A.--- RCW (the new chapter created in section
29 502 of this act);

30 (b) Plastic trash bags; and

31 (c) Plastic plant pots or trays.

32 (22) "Plant pot or tray" means a single-use or durable container,
33 material transport tray, or water collection tray used to grow,
34 contain, cultivate, display, or transport plants or soil.

35 **Sec. 214.** RCW 70A.245.020 and 2021 c 313 s 3 are each amended to
36 read as follows:

37 (1) (a) Beginning January 1, 2023, producers that offer for sale,
38 sell, or distribute in or into Washington:

1 (i) Beverages other than wine in 187 milliliter plastic beverage
2 containers and dairy milk in plastic beverage containers must meet
3 minimum postconsumer recycled content requirements established under
4 subsection (4) of this section; and

5 (ii) Plastic trash bags must meet minimum postconsumer recycled
6 content requirements established under subsection ~~((+6+))~~ (7) of this
7 section.

8 (b) Beginning January 1, 2025, producers that offer for sale,
9 sell, or distribute in or into Washington household cleaning and
10 personal care products in plastic household cleaning and personal
11 care product containers must meet minimum postconsumer recycled
12 content as required under subsection ~~((+5+))~~ (6) of this section.

13 ~~((+c) Beginning January 1, 2028, producers that offer for sale,
14 sell, or distribute in or into Washington wine in 187 milliliter
15 plastic beverage containers or dairy milk in plastic beverage
16 containers must meet minimum postconsumer recycled content as
17 required under subsection (4) of this section.))~~

18 (2) (a) On or before April 1, 2022, and annually thereafter until
19 a producer responsibility organization takes on such duties under
20 chapter 70A.--- RCW (the new chapter created in section 502 of this
21 act) on January 1, 2026, a producer that offers for sale, sells, or
22 distributes in or into Washington covered products must register with
23 the department individually or through a third-party representative
24 registering on behalf of a group of producers.

25 (b) The registration information submitted to the department
26 under this section must include a list of the producers of covered
27 products and the brand names of the covered products represented in
28 the registration submittal. Beginning April 1, 2024, for plastic
29 trash bags and plastic beverage containers other than wine in 187
30 milliliter plastic beverage containers and dairy milk in plastic
31 beverage containers, ~~((April 1, 2026, for plastic household and
32 personal care product containers, and April 1, 2029, for wine in 187
33 milliliter plastic beverage containers and dairy milk,))~~ a producer
34 may submit registration information at the same time as the
35 information submitted through the annual reporting required under RCW
36 70A.245.030.

37 (3) (a) By January 31, 2022, and every January 31st ~~((thereafter))~~
38 until January 31, 2025, the department must:

39 (i) Prepare an annual workload analysis for public comment that
40 identifies the annual costs it expects to incur to implement,

1 administer, and enforce this section and RCW 70A.245.030 through
2 70A.245.060 and 70A.245.090 (1), (2), and (4), including rule making,
3 in the next fiscal year for each category of covered products;

4 (ii) Determine a total annual fee payment by producers or their
5 third-party representatives for each category of covered products
6 that is adequate to cover, but not exceed, the workload identified in
7 (a)(i) of this subsection;

8 (iii) Until rules are adopted under (a)(iv) of this subsection,
9 issue a general order to all entities falling within the definition
10 of producer. The department must equitably determine fee amounts for
11 an individual producer or third-party representatives within each
12 category of covered product;

13 (iv) By 2024, adopt rules to equitably determine annual fee
14 payments by producers or their third-party representatives within
15 each category of covered product. Once such rules are adopted, the
16 general order issued under (a)(iii) of this subsection is no longer
17 effective; and

18 (v) Send notice to producers or their third-party representatives
19 of fee amounts due consistent with either the general order issued
20 under (a)(iii) of this subsection or rules adopted under (a)(iv) of
21 this subsection.

22 (b) The department must:

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

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

29 (c) By April 1, 2022, and every April 1st thereafter until April
30 1, 2025, producers or their third-party representative must submit a
31 fee payment as determined by the department under (a) of this
32 subsection.

33 (4) A producer of a beverage (~~in a plastic beverage container~~
34 ~~must meet the following annual minimum postconsumer recycled content~~
35 ~~percentage)) in a plastic beverage container, except wine in 187
36 milliliter plastic beverage containers and dairy milk, must achieve
37 no less than 15 percent postconsumer recycled content plastic by
38 weight on average for the total quantity of plastic beverage
39 containers, by weight, that are sold, offered for sale, or
40 distributed in or into Washington by the producer effective(÷~~

1 ~~(a) For beverages except wine in 187 milliliter plastic beverage~~
2 ~~containers and dairy milk:~~

3 ~~(i)) for products manufactured between January 1, 2023, through~~
4 ~~December 31, 2025~~ (~~:(~~ ~~No less than 15 percent postconsumer recycled~~
5 ~~content plastic by weight;~~

6 ~~(ii) January 1, 2026, through December 31, 2030: No less than 25~~
7 ~~percent postconsumer recycled content plastic by weight; and~~

8 ~~(iii) On and after January 1, 2031: No less than 50 percent~~
9 ~~postconsumer recycled content plastic by weight.~~

10 ~~(b) For wine in 187 milliliter plastic beverage containers and~~
11 ~~dairy milk:~~

12 ~~(i) January 1, 2028, through December 31, 2030: No less than 15~~
13 ~~percent postconsumer recycled content plastic by weight;~~

14 ~~(ii) January 1, 2031, through December 31, 2035: No less than 25~~
15 ~~percent postconsumer recycled content plastic by weight; and~~

16 ~~(iii) On and after January 1, 2036: No less than 50 percent~~
17 ~~postconsumer recycled content plastic by weight)).~~

18 (5) A producer of household cleaning and personal care products
19 in plastic containers must meet the following annual minimum
20 postconsumer recycled content percentage on average for the total
21 quantity of plastic containers, by weight, that are sold, offered for
22 sale, or distributed in or into Washington by the producer and
23 manufactured between January 1, 2025, through December 31, 2025: No
24 less than 15 percent postconsumer recycled content plastic by weight.

25 (6) A producer of household cleaning ((and)) or plastic personal
26 care products that are pesticide products regulated by the federal
27 insecticide, fungicide, and rodenticide act, 7 U.S.C. Sec. 136 et
28 seq. and that are excluded from the requirements of chapters 70A.---
29 (the new chapter created in section 501 of this act) and 70A.--- RCW
30 (the new chapter created in section 502 of this act) in plastic
31 containers that are in direct contact with the regulated product must
32 meet the following annual minimum postconsumer recycled content
33 percentage on average for the total quantity of plastic containers,
34 by weight, that are sold, offered for sale, or distributed in or into
35 Washington by the producer effective:

36 (a) Products manufactured between January 1, 2025, through
37 December 31, 2027: No less than 15 percent postconsumer recycled
38 content plastic by weight;

1 (b) Products manufactured between January 1, 2028, through
2 December 31, 2030: No less than 25 percent postconsumer recycled
3 content plastic by weight; and

4 (c) ~~((6))~~ Products manufactured on and after January 1, 2031: No
5 less than 50 percent postconsumer recycled content plastic by weight.

6 ~~((6))~~ (7) A producer of plastic trash bags must meet the
7 following annual minimum postconsumer recycled content percentage on
8 average for the total quantity of plastic trash bags, by weight, that
9 are sold, offered for sale, or distributed in or into Washington by
10 the producer effective:

11 (a) Products manufactured between January 1, 2023, through
12 December 31, 2024: No less than 10 percent postconsumer recycled
13 content plastic by weight;

14 (b) Products manufactured between January 1, 2025, through
15 December 31, 2026: No less than 15 percent postconsumer recycled
16 content plastic by weight; and

17 (c) ~~((6))~~ Products manufactured on and after January 1, 2027: No
18 less than 20 percent postconsumer recycled content plastic by weight.

19 ~~((7)(a) Beginning January 1, 2024, or when rule making is
20 complete, whichever is sooner, the department may, on an annual basis
21 on January 1st, review and determine for the following year whether
22 to adjust the minimum postconsumer recycled content percentage
23 required for a type of container or product or category of covered
24 products pursuant to subsection (4), (5), or (6) of this section. The
25 department's review may be initiated by the department or at the
26 petition of a producer or a covered product manufacturing industry
27 not more than once annually. When submitting a petition, producers or
28 a producer manufacturing industry must provide necessary information
29 that will allow the department to make a determination under (b) of
30 this subsection.~~

31 ~~(b) In making a determination pursuant to this subsection, the
32 department must consider, at a minimum, all of the following factors:~~

33 ~~(i) Changes in market conditions, including supply and demand for
34 postconsumer recycled content plastics, collection rates, and bale
35 availability both domestically and globally;~~

36 ~~(ii) Recycling rates;~~

37 ~~(iii) The availability of recycled plastic suitable to meet the
38 minimum postconsumer recycled content requirements pursuant to
39 subsection (4), (5), or (6) of this section, including the~~

1 availability of high quality recycled plastic, and food-grade
2 recycled plastic from recycling programs;

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

4 (v) The technical feasibility of achieving the minimum
5 postconsumer recycled content requirements in covered products that
6 are regulated under 21 C.F.R., chapter I, subchapter G, 7 U.S.C. Sec.
7 136, 15 U.S.C. Sec. 1471-1477, 49 C.F.R. Sec. 178.33b, 49 C.F.R. Sec.
8 173, 40 C.F.R. Sec. 152.10, 15 U.S.C. Sec. 1261-1278, 49 U.S.C. 5101
9 et seq., 49 C.F.R. Sec. 178.509, 49 C.F.R. Sec. 179.522, 49 C.F.R.
10 Sec. 178.600-609, and other federal laws; and

11 (vi) The progress made by producers in achieving the goals of
12 this section.

13 (c) Under (a) of this subsection:

14 (i) The department may not adjust the minimum postconsumer
15 recycled content requirements above the minimum postconsumer recycled
16 content percentages for the year under review required pursuant to
17 subsection (4), (5), or (6) of this section.

18 (ii)) (8) A producer of plastic plant pots or trays must meet
19 the following annual minimum postconsumer recycled content percentage
20 on average for the total quantity of plastic plant pots or trays, by
21 weight, that are sold, offered for sale, or distributed in or into
22 Washington by the producer effective:

23 (a) Products manufactured between January 1, 2026, through
24 December 31, 2030: No less than 30 percent postconsumer recycled
25 content plastic by weight;

26 (b) Products manufactured on and after January 1, 2031: No less
27 than 80 percent postconsumer recycled content plastic by weight.

28 (9) (a) The department must manage requests by producers under
29 this chapter for a PCRC rate adjustment, extension, or temporary
30 exclusion in a manner consistent with the procedures for the
31 submission and review of rate adjustments, extensions, or temporary
32 exclusions by producer responsibility organizations under section 209
33 of this act. Subsections (b), (c), and (d) of this subsection provide
34 specific additional provisions applicable to the rate adjustments,
35 extensions, or temporary exclusions allowed under this chapter.

36 (b) For plastic household cleaning and personal care product
37 containers, the department may not adjust the minimum postconsumer
38 recycled content requirements above the minimum postconsumer recycled
39 content percentages for the year under review required pursuant to

1 subsection (~~(5)~~) (6) of this section or below a minimum of 10
2 percent.

3 (~~(iii)~~) (c) For plastic trash bags, the department may not
4 adjust the minimum postconsumer recycled content requirements above
5 the minimum postconsumer recycled content percentages for the year
6 under review required pursuant to (~~subsection (6) of~~) this section
7 or below the minimum percentage required in (~~subsection (6)(a) of~~)
8 this section.

9 (d) (~~A producer or the manufacturing industry for a covered~~
10 ~~product may appeal a decision by the department to adjust~~
11 ~~postconsumer recycled content percentages under (a) of this~~
12 ~~subsection or to temporarily exclude covered products from minimum~~
13 ~~postconsumer recycled content requirements under subsection (8) of~~
14 ~~this section to the pollution control hearings board within 30 days~~
15 ~~of the department's determination.~~

16 ~~(8) The department must temporarily exclude from minimum~~
17 ~~postconsumer recycled content requirements for the upcoming year any~~
18 ~~types of covered products in plastic containers for which a producer~~
19 ~~annually demonstrates to the department by December 31st of a given~~
20 ~~year that the achievement of postconsumer recycled content~~
21 ~~requirements in the container material is not technically feasible in~~
22 ~~order to comply with health or safety requirements of federal law,~~
23 ~~including the federal laws specified in subsection (7)(b)(v) of this~~
24 ~~section. A producer must continue to register and report consistent~~
25 ~~with the requirements of this chapter for covered products~~
26 ~~temporarily excluded from minimum postconsumer recycled content~~
27 ~~requirements under this subsection)) Any exclusion for a product
28 regulated under 7 U.S.C. Sec. 136 et seq. must be granted for a
29 period of four years from the date of department approval.~~

30 (~~(9)~~) (10) A producer that does not achieve the postconsumer
31 recycled content requirements established under this section or does
32 not comply with the labeling requirements established in RCW
33 70A.245.060 is subject to penalties established in RCW 70A.245.040.

34 (~~(10)~~) (11)(a) A city, town, county, or municipal corporation
35 may not implement local recycled content requirements for (~~a covered~~
36 ~~product that is~~) certified PCRC products or covered products that
37 are subject to minimum postconsumer recycled content requirements
38 established in this section.

39 (b) A city, town, county, or municipal corporation may establish
40 local purchasing requirements that include recycled content standards

1 that exceed the minimum recycled content requirements established by
2 this chapter for ~~((plastic household cleaning and personal care
3 product containers or plastic trash bags))~~ certified PCRC products or
4 covered products purchased by a city, town, or municipal corporation,
5 or its contractor.

6 ~~((11) The department may enter into contracts for the services
7 required to implement this chapter and related duties of the
8 department.))~~

9 (12) In-state distributors, wholesalers, and retailers in
10 possession of ~~((covered products))~~ certified PCRC products or covered
11 products manufactured before the date that postconsumer recycled
12 content requirements become effective may exhaust their existing
13 stock through sales to the public.

14 **Sec. 215.** RCW 70A.245.030 and 2021 c 313 s 4 are each amended to
15 read as follows:

16 (1) (a) Except as provided in (b) ~~((and (e)))~~ of this subsection,
17 ~~((beginning))~~ on April 1, 2024, and April 1, 2025, each producer of
18 covered products, individually or through a third party representing
19 a group of producers, must provide an annual report to the department
20 that includes the amount in pounds of virgin plastic and the amount
21 in pounds of postconsumer recycled content by resin type used for
22 each category of covered products that are sold, offered for sale, or
23 distributed in or into Washington state, including the total
24 postconsumer recycled content resins as a percentage of total weight.
25 The report must be submitted in a format and manner prescribed by the
26 department. A manufacturer may submit national data allocated on a
27 per capita basis for Washington to approximate the information
28 required in this subsection if the producer or third-party
29 representative demonstrates to the department that state level data
30 are not available or feasible to generate.

31 (b) The requirements of (a) of this subsection apply to household
32 cleaning and personal care products in plastic containers beginning
33 April 1, 2026.

34 (c) ~~((The requirements of (a) of this subsection apply to wine in
35 187 milliliter plastic beverage containers and dairy milk in plastic
36 beverage containers beginning April 1, 2029.~~

37 ~~(d))~~ The department must post the information reported under
38 this subsection on its website, except as provided in subsection (2)
39 of this section.

1 (d) A plastic trash bag producer must develop a certificate of
2 compliance within one year of the beginning of postconsumer recycled
3 content requirements applicable to a plastic trash bag, conducted by
4 a third-party certification entity, stating that a plastic trash bag
5 is in compliance with the labeling requirements of RCW 70A.245.060
6 and the postconsumer recycled content requirements of RCW 70.245.020.
7 A producer of other certified PCRC products must maintain a
8 certificate of compliance stating that the certified PCRC product is
9 in compliance with the postconsumer recycled content requirements of
10 RCW 70A.245.020. A third-party certification entity must be an
11 independent, accredited (ISO/IEC 17065) certifying body.

12 (2) A producer that submits information or records to the
13 department under this chapter may request that the information or
14 records be made available only for the confidential use of the
15 department, the director, or the appropriate division of the
16 department. The director of the department must give consideration to
17 the request and if this action is not detrimental to the public
18 interest and is otherwise in accordance with the policies and
19 purposes of chapter 43.21A RCW, the director must grant the request
20 for the information to remain confidential as authorized in RCW
21 43.21A.160. The director shall develop a compliance certificate by
22 the dates on which the postconsumer recycled content requirements in
23 RCW 70A.245.020 take effect for the producer's certified PCRC
24 products.

25 (3) If compliance with minimum recycled content requirements is
26 achieved through an adjustment or temporary exclusion made pursuant
27 to RCW 70A.245.020, the certificate must state the specific basis
28 upon which the temporary exclusion or adjustment is claimed.

29 (4)(a) The certificate of compliance must be signed by an
30 authorized official of the producer unless the certificate is
31 provided by a third-party certification entity.

32 (b) The certificate of compliance must be kept on file by the
33 producer for three years from the date of the last sale or
34 distribution by the producer.

35 (c) A producer must furnish a certificate of compliance to the
36 department upon request within 60 days.

37 (d) Requests from a member of the public for any certificate of
38 compliance must be made in writing to the department and must be
39 specific as to the certified PCRC product information requested. The

1 department must respond to requests from a member of the public under
2 this subsection within 90 days.

3 (e) If a person is required under any other state statute,
4 including chapter 70A.222 RCW, to provide a certificate of
5 compliance, one certificate may be developed containing all required
6 information.

7 (f) If the producer of the certified PCRC product reformulates or
8 creates a new certified PCRC product, the producer shall develop an
9 amended or new certificate of compliance for the reformulated or new
10 certified PCRC product.

11 **Sec. 216.** RCW 70A.245.040 and 2021 c 313 s 5 are each amended to
12 read as follows:

13 (1) For covered products:

14 (a) A producer that does not meet the minimum postconsumer
15 recycled content requirements pursuant to RCW 70A.245.020 is subject
16 to a penalty pursuant to this section. Beginning June 1st of the year
17 following the first year that minimum postconsumer recycled product
18 content requirements apply to a category of covered product, the
19 penalty must be calculated consistent with subsection (2) of this
20 section unless a penalty reduction or corrective action plan has been
21 approved pursuant to subsection (3) of this section.

22 (b) A producer that is assessed a penalty pursuant to this
23 section may pay the penalty to the department in one payment, in
24 quarterly installments, or arrange an alternative payment schedule
25 subject to the approval of the department, not to exceed a 12-month
26 payment schedule unless the department determines an extension is
27 needed due to unforeseen circumstances, such as a public health
28 emergency, state of emergency, or natural disaster.

29 (2) Beginning June 1st of the year following the first year that
30 minimum postconsumer recycled product content requirements apply to a
31 category of covered product, and annually thereafter, the department
32 shall determine the penalty for the previous calendar year based on
33 the postconsumer recycled content requirement of the previous
34 calendar year. The department shall calculate the amount of the
35 penalty based upon the amounts in pounds in the aggregate of virgin
36 plastic, postconsumer recycled content plastic, and any other plastic
37 per category used by the producer to produce covered products sold or
38 offered for sale in or into Washington state, in accordance with the
39 following:

1 (a)(i) The annual penalty amount assessed to a producer must
2 equal the product of both of the following: The total pounds of
3 plastic used per category multiplied by the relevant minimum
4 postconsumer recycled plastic target percentage, less the pounds of
5 total plastic multiplied by the percent of postconsumer recycled
6 plastic used; multiplied by 20 cents.

7 (ii) Example: [(Total pounds of plastic used x minimum
8 postconsumer recycled plastic target percentage) - (Total pounds of
9 plastic used x postconsumer recycled plastic percentage used)] x 20
10 cents.

11 (b) For the purposes of (a) of this subsection, both of the
12 following apply:

13 (i) The total pounds of plastic used must equal the sum of the
14 amount of virgin plastic, postconsumer recycled content plastic, and
15 any other plastic used by the producer, as reported pursuant to RCW
16 70A.245.030.

17 (ii) If the product calculated pursuant to (a) of this subsection
18 is equal to or less than zero, the department may not assess a
19 penalty.

20 (3)(a)(i) The department shall consider granting a reduction of
21 penalties assessed pursuant to this section for the purpose of
22 meeting the minimum postconsumer recycled content requirements
23 required pursuant to RCW 70A.245.020.

24 (ii) In determining whether to grant the reduction pursuant to
25 (a)(i) of this subsection, the department shall consider, at a
26 minimum, all of the following factors:

27 (A) Anomalous market conditions;

28 (B) Disruption in, or lack of supply of, recycled plastics; and

29 (C) Other factors that have prevented a producer from meeting the
30 requirements.

31 (b) In lieu of or in addition to assessing a penalty under this
32 section, the department may require a producer to submit a corrective
33 action plan detailing how the producer plans to come into compliance
34 with RCW 70A.245.020.

35 (4) For the purposes of determining compliance with the
36 postconsumer recycled content requirements of this chapter, the
37 department may consider the date of manufacture of a covered product
38 or the container of a covered product.

39 (5) A producer shall pay the penalty assessed pursuant to this
40 section, as applicable, based on the information reported to the

1 department as required under RCW 70A.245.030 in the form and manner
2 prescribed by the department.

3 (6) For certified PCRC products:

4 (a) The department may assess a civil penalty to a producer in
5 violation of the requirements of RCW 70A.245.020, 70A.245.030, or
6 70A.245.060 in the amount of up to \$2,000 for the first violation of
7 this chapter, up to \$5,000 for the second violation of this chapter,
8 and up to \$10,000 for the third and any subsequent violation of RCW
9 70A.245.020, 70A.245.030, or 70A.245.060.

10 (b) A specific violation is deemed to have occurred upon the sale
11 of noncompliant product by stock-keeping unit number or unique item
12 number. The repeated sale of the same noncompliant product by stock-
13 keeping unit number or unique item number is considered a single
14 violation.

15 (7) For the purposes of determining compliance with the
16 postconsumer recycled content requirements of this chapter, the
17 department may consider the date of manufacture of a certified PCRC
18 product.

19 (8) A producer may appeal the penalty assessed under this section
20 to the pollution control hearings board within 30 days of assessment.

21 ((+7)) (9) Penalties collected under this section must be
22 deposited in the recycling enhancement account created in RCW
23 70A.245.100.

24 **Sec. 217.** RCW 70A.245.090 and 2021 c 313 s 12 are each amended
25 to read as follows:

26 (1) ((The)) Until December 31, 2025, the department may conduct
27 audits and investigations for the purpose of ensuring covered product
28 compliance with RCW 70A.245.020 and 70A.245.040 based on the
29 information reported under RCW 70A.245.030.

30 (2) ((The)) Until December 31, 2025, the department shall
31 annually publish a list of registered producers of covered products
32 and associated brand names, their compliance status, and other
33 information the department deems appropriate on the department's
34 website.

35 (3) To assist regulated parties with the requirements specified
36 under RCW 70A.245.070 and 70A.245.080, the department:

37 (a) Must prepare and post on its website information regarding
38 the prohibitions on the sale and distribution of expanded polystyrene

1 products as specified under RCW 70A.245.070 and restrictions on the
2 provision of optional serviceware under RCW 70A.245.080;

3 (b) For education and outreach to help implement RCW 70A.245.070
4 and 70A.245.080, may develop culturally appropriate and translated
5 educational materials and resources for the state's diverse ethnic
6 populations from existing materials used by local jurisdictions and
7 other states.

8 (4) The department may adopt rules as necessary to administer,
9 implement, and enforce this chapter.

10 **Sec. 218.** RCW 70A.245.100 and 2021 c 313 s 13 are each amended
11 to read as follows:

12 The recycling enhancement account is created in the custody of
13 the state treasurer. All penalties collected by the department
14 pursuant to RCW 70A.245.040 (~~and~~), 70A.245.050, and sections 123
15 and 211 of this act must be deposited in the account. Only the
16 director of the department or the director's designee may authorize
17 expenditures from the account. The account is subject to the
18 allotment procedures under chapter 43.88 RCW, but an appropriation is
19 not required for expenditures. Expenditures from the account may be
20 used by the department only for providing grants to local governments
21 for the purpose of supporting local solid waste and financial
22 assistance programs.

23 **Sec. 219.** RCW 70A.245.120 and 2021 c 313 s 15 are each amended
24 to read as follows:

25 (1) Subject to the availability of amounts appropriated for this
26 specific purpose prior to January 1, 2028, the department shall
27 contract with a research university or an independent third-party
28 consultant to study the plastic resin markets for all of the
29 following:

30 (a) Analyzing market conditions and opportunities in the state's
31 recycling industry for meeting the minimum postconsumer recycled
32 content requirements for (~~covered products~~) certified PCRC products
33 pursuant to RCW 70A.245.020 and 70A.245.030 for products subject to
34 minimum postconsumer recycled content requirements under chapter
35 70A.--- RCW (the new chapter created in section 502 of this act) and
36 this chapter, and for plastic collection bins subject to section 221
37 of this act; and

1 (b) Determining the data needs and tracking opportunities to
2 increase the transparency and support of a more effective, fact-based
3 public understanding of the recycling industry.

4 (2) If funding is provided pursuant to subsection (1) of this
5 section and the department undertakes the study, the study must be
6 completed by May 1, 2029.

7 (3) This section expires July 1, 2029.

8 **Sec. 220.** RCW 70A.245.060 and 2021 c 313 s 7 are each amended to
9 read as follows:

10 (1) Beginning January 1, 2023, producers shall label each package
11 containing plastic trash bags sold, offered for sale, or distributed
12 in or into Washington with:

13 (a) The name of the producer and the city, state, and country
14 where the producer is located, which may be designated as the
15 location of the producer's corporate headquarters, and, beginning
16 January 1, 2026, the percentage of postconsumer recycled content that
17 the plastic trash bag contains in accordance with 16 C.F.R. Part 260,
18 as it existed as of the effective date of this section; or

19 (b) A uniform resource locator or quick response code to an
20 internet website that contains the information required pursuant to
21 (a) of this subsection.

22 (2)(a) The provisions of subsection (1) of this section do not
23 apply to a plastic bag that is designed and manufactured to hold,
24 store, or transport dangerous waste or biomedical waste.

25 (b) For the purposes of this subsection:

26 (i) "Biomedical waste" means any waste defined as that term under
27 RCW 70A.228.010; and

28 (ii) "Dangerous waste" means any waste defined as dangerous
29 wastes under RCW 70A.300.010.

30 NEW SECTION. **Sec. 221.** A new section is added to chapter
31 70A.245 RCW to read as follows:

32 ROLL CARTS. (1) Beginning January 1, 2025, a manufacturer or
33 person may only sell, offer for sale, or distribute for use in
34 Washington plastic collection bins made from at least 25 percent
35 postconsumer recycled content. However, a person providing solid
36 waste collection services may distribute for use in Washington any
37 plastic collection bins that were in use or in its inventory in

1 Washington state prior to January 1, 2025, until the end of such a
2 bin's useful life.

3 (2) A person with an existing municipal contract for plastic
4 collection bins that was in place prior to August 1, 2024, is exempt
5 from this section until the expiration or renewal date of the
6 contract. A new or renewed contract whose terms take effect after
7 August 1, 2024, must be consistent with the requirements of this
8 section. Exempt persons are encouraged to meet the requirements of
9 this section as collection bins are replaced under existing
10 contracts.

11 (3) Manufacturers of plastic collection bins, including persons
12 that sell, offer for sale, distribute, or provide collection bins in
13 Washington must provide written evidence or certification, upon
14 request, to the department or any municipality, retailer, stewardship
15 organization, solid waste collection company, or other purchaser of
16 collection bins showing that their collection bins meet the
17 requirements of this section.

18 (4) For the purposes of this section, "plastic collection bins"
19 include plastic bins, cans, carts, toters, roll carts, or other
20 receptacles used to collect recyclables, compostable materials, or
21 garbage used by solid waste collection services.

22 **Part Three**
23 **Amendments to Solid Waste Management Laws**

24 **Sec. 301.** RCW 70A.205.005 and 2002 c 299 s 3 are each amended to
25 read as follows:

26 The legislature finds:

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

34 (2) Traditional methods of disposing of solid wastes in this
35 state are no longer adequate to meet the ever-increasing problem.
36 Improper methods and practices of handling and disposal of solid
37 wastes pollute our land, air and water resources, blight our

1 countryside, adversely affect land values, and damage the overall
2 quality of our environment.

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

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

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

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

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

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

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

1 (e) It is the responsibility of producers to help provide for the
2 responsible management of their products.

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

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

10 (a) Waste reduction;

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

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

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

17 (9) It is the state's goal to achieve a (~~fifty~~) 50 percent
18 recycling rate by 2007.

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

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

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

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

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

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

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

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

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

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

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

18 **Sec. 302.** RCW 70A.205.010 and 2005 c 394 s 2 are each amended to
19 read as follows:

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

25 ~~((1))~~ (a) To assign primary responsibility for adequate solid
26 waste handling to local government, reserving to the state, however,
27 those functions necessary to assure effective programs throughout the
28 state;

29 ~~((2))~~ (b) To provide for adequate planning for solid waste
30 handling by local government;

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

35 ~~((4))~~ (d) To encourage the development and operation of waste
36 recycling facilities needed to accomplish the management priority of
37 waste recycling, to promote consistency in the requirements for such
38 facilities throughout the state, and to ensure that recyclable

1 materials diverted from the waste stream for recycling are routed to
2 facilities in which recycling occurs;

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

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

9 ~~(7))~~ (g) To encourage the development and operation of waste
10 recycling facilities and activities needed to accomplish the
11 management priority of waste recycling and to promote consistency in
12 the permitting requirements for such facilities and activities
13 throughout the state; and

14 (h) To assign producer responsibility for covered products under
15 chapters 70A.500, 70A.505, 70A.510, 70A.515, 70A.550, 69.48, and
16 70A.--- RCW (the new chapter created in section 501 of this act).

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

21 **Sec. 303.** RCW 70A.205.045 and 2020 c 20 s 1163 are each amended
22 to read as follows:

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

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

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

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

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

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

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

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

6 (4) A program for surveillance and control.

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

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

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

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

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

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

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

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

33 (b) Source separation strategies, including:

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

36 (A) Until January 1, 2029, these programs shall include
37 collection of source separated recyclable materials from single and
38 multiple-family residences, in urban areas, unless the department
39 approves an alternative program, according to the criteria in the
40 planning guidelines. Such criteria shall include: Anticipated

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

12 (B) Beginning January 1, 2029, except where the county has
13 adopted an ordinance consistent with section 114 of this act
14 establishing that the full list of materials on the uniform statewide
15 collection list for curbside recycling programs established by the
16 department must be collected exclusively through drop-off locations
17 in areas regulated by the utilities and transportation commission
18 under the provisions of chapter 81.77 RCW as allowed under the
19 provisions of chapter 70A.--- RCW (the new chapter created in section
20 501 of this act), these programs shall:

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

24 (II) Include materials on the uniform statewide collection list
25 designated for curbside collection established by the department; and

26 (III) Include the service standards for curbside collection
27 frequency, container size, and method of collection, established
28 under plans approved by the department under chapter 70A.--- RCW (the
29 new chapter created in section 501 of this act);

30 (C) Comprehensive solid waste management plans that are newly
31 developed, updated, or amended after October 1, 2027, may incorporate
32 by reference programs described in an approved producer
33 responsibility organization plan under chapter 70A.--- RCW (the new
34 chapter created in section 501 of this act) to fulfill this
35 requirement in whole or in part;

36 (D) Before January 1, 2029, each comprehensive solid waste
37 management plan must be amended, revised, or updated by a
38 jurisdiction consistent with the requirements of this subsection
39 (7)(b)(i). Beginning January 1, 2029, until a comprehensive solid
40 waste management plan is amended, revised, or updated to be

1 consistent with the requirements of this subsection (7)(b)(i), the
2 model comprehensive solid waste plan amendment provided by the
3 department under section 104 of this act applies in the jurisdiction;

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

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

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

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

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

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

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

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

1 of creating their own plan. A recycling contamination reduction and
2 outreach plan must include the following:

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

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

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

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

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

19 **Sec. 304.** RCW 81.77.030 and 2020 c 20 s 1467 are each amended to
20 read as follows:

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

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

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

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

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

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

34 ~~((6))~~ (f) By reviewing producer responsibility organization
35 reimbursement of regulated service providers consistent with the
36 requirements of chapter 70A.--- RCW (the new chapter created in
37 section 501 of this act);

38 (g) By requiring certificate holders under this chapter ~~((81.77~~
39 ~~RCW))~~ to use rate structures and billing systems consistent with the

1 solid waste management priorities set forth under RCW 70A.205.005 and
2 the minimum levels of solid waste collection and recycling services
3 pursuant to local comprehensive solid waste management plans. The
4 commission may order consolidated billing and provide for reasonable
5 and necessary expenses to be paid to the administering company if
6 more than one certificate is granted in an area; and

7 (h) By requiring certificate holders under this chapter to
8 deliver covered products, as defined in section 102 of this act,
9 collected from residents only to facilities that meet the
10 requirements of section 110(2) of this act.

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

20 **Sec. 305.** RCW 81.77.160 and 1997 c 434 s 1 are each amended to
21 read as follows:

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

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

28 (b) All known and measurable costs related to implementation of
29 the approved county or city comprehensive solid waste management
30 plan; and

31 (c) All costs related to the implementation of curbside recycling
32 collection services performed by a solid waste collection company
33 consistent with chapter 70A.--- RCW (the new chapter created in
34 section 501 of this act).

35 (2) If a solid waste collection company files a tariff to recover
36 the costs specified under this section, and the commission suspends
37 the tariff, the portion of the tariff covering costs specified in
38 this section shall be placed in effect by the commission at the
39 request of the company on an interim basis as of the originally filed

1 effective date, subject to refund, pending the commission's final
2 order. The commission may adopt rules to implement this section.

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

8 NEW SECTION. **Sec. 306.** A new section is added to chapter 81.77
9 RCW to read as follows:

10 (1) The commission shall adopt rules to establish schedules for
11 payments from producer responsibility organizations formed under
12 chapter 70A.--- RCW (the new chapter created in section 501 of this
13 act) to solid waste collection companies for full cost recovery and
14 reimbursement mechanisms for residential recycling customers.

15 (2)(a) For solid waste collection company payment schedules, the
16 commission shall adopt rules to ensure that solid waste collection
17 companies maintain:

18 (i) Financial solvency; and

19 (ii) Ordinary cash flow.

20 (b) Under the rules adopted by the commission, payment schedules
21 must be consistent with:

22 (i) Any tariffs approved by the commission;

23 (ii) Payment schedules included in comprehensive solid waste
24 management plans prepared under RCW 70A.205.045;

25 (iii) Local service level ordinances; and

26 (iv) Other factors determined by the commission to be necessary
27 and in the public interest.

28 (3) For residential recycling customer reimbursement, the
29 commission shall develop rules that:

30 (a) Establish a credit mechanism for customers to be reimbursed
31 for the full cost of curbside recycling consistent with section 116
32 of this act; and

33 (b) Maintain existing billing practices for solid waste
34 collection companies.

35 (4) Nothing in this section requires a solid waste collection
36 company to issue a billing credit for curbside recycling to customers
37 if the company has not received a payment from the producer
38 responsibility organization sufficient to cover the cost of the
39 credit to all customers covered by the company tariff.

1 70A.245.020, 70A.65.200, 70A.555.110, 70A.560.020, sections 123 and
2 211 of this act, 86.16.020, 88.46.070, 90.14.130, 90.46.250,
3 90.48.120, and 90.56.330.

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

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

14 (e) Decisions of local health departments regarding the issuance
15 and enforcement of permits to use or dispose of biosolids under RCW
16 70A.226.090.

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

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

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

30 (i) Decisions of the department of natural resources, the
31 department of fish and wildlife, and the department that are
32 reviewable under chapter 76.09 RCW, and the department of natural
33 resources' appeals of county, city, or town objections under RCW
34 76.09.050(7).

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

37 (k) Decisions of the department of fish and wildlife to issue,
38 deny, condition, or modify a hydraulic project approval permit under
39 chapter 77.55 RCW, to issue a stop work order, to issue a notice to

1 comply, to issue a civil penalty, or to issue a notice of intent to
2 disapprove applications.

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

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

9 (n) Decisions of the department of ecology that are appealable
10 under RCW 70A.245.020 or section 210 of this act to set recycled
11 minimum postconsumer content for (~~covered~~) products or to
12 temporarily exclude types of (~~covered~~) products in plastic
13 containers from minimum postconsumer recycled content requirements.

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

15 (p) Decisions by the department of ecology under section 110(5)
16 of this act regarding a proposal by a producer responsibility
17 organization to count materials sent to an alternative recycling
18 facility towards recycling performance rates.

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

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

23 (b) Hearings conducted by the department pursuant to RCW
24 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,
25 70A.15.3110, and 90.44.180.

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

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

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

33 **Sec. 402.** RCW 43.21B.300 and 2023 c 455 s 6, 2023 c 434 s 21,
34 and 2023 c 135 s 7 are each reenacted and amended to read as follows:

35 (1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160,
36 70A.205.280, 70A.300.090, 70A.20.050, 70A.245.040, 70A.245.050,
37 70A.245.070, 70A.245.080, 70A.245.130, 70A.245.140, 70A.65.200,
38 70A.455.090, 70A.555.110, 70A.560.020, sections 123 and 211 of this
39 act, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310,

1 90.56.330, and 90.64.102 and chapter 70A.355 RCW shall be imposed by
2 a notice in writing, either by certified mail with return receipt
3 requested or by personal service, to the person incurring the penalty
4 from the department or the local air authority, describing the
5 violation with reasonable particularity. For penalties issued by
6 local air authorities, within 30 days after the notice is received,
7 the person incurring the penalty may apply in writing to the
8 authority for the remission or mitigation of the penalty. Upon
9 receipt of the application, the authority may remit or mitigate the
10 penalty upon whatever terms the authority in its discretion deems
11 proper. The authority may ascertain the facts regarding all such
12 applications in such reasonable manner and under such rules as it may
13 deem proper and shall remit or mitigate the penalty only upon a
14 demonstration of extraordinary circumstances such as the presence of
15 information or factors not considered in setting the original
16 penalty.

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

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

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

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

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

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

1 and rules of evidence shall be the same as in an ordinary civil
2 action.

3 (5) All penalties recovered shall be paid into the state treasury
4 and credited to the general fund except those penalties imposed
5 pursuant to RCW 18.104.155, which shall be credited to the
6 reclamation account as provided in RCW 18.104.155(7), RCW
7 70A.15.3160, the disposition of which shall be governed by that
8 provision, RCW 70A.245.040 (~~and~~), 70A.245.050, and section 211 of
9 this act, which shall be credited to the recycling enhancement
10 account created in RCW 70A.245.100, RCW 70A.300.090, 70A.555.110, and
11 70A.560.020, which shall be credited to the model toxics control
12 operating account created in RCW 70A.305.180, RCW 70A.65.200, which
13 shall be credited to the climate investment account created in RCW
14 70A.65.250, RCW 90.56.330, which shall be credited to the coastal
15 protection fund created by RCW 90.48.390, (~~and~~) RCW 70A.355.070,
16 which shall be credited to the underground storage tank account
17 created by RCW 70A.355.090, and chapter 70A.--- RCW (the new chapter
18 created in section 501 of this act), which shall be credited to the
19 recycling enhancement account created in RCW 70A.245.100.

20 NEW SECTION. Sec. 403. AUTHORITY OF UTILITIES AND
21 TRANSPORTATION COMMISSION. Nothing in this chapter or chapter 70A.---
22 RCW (the new chapter created in section 502 of this act) changes or
23 limits the authority of the Washington utilities and transportation
24 commission to regulate collection of solid waste, including curbside
25 collection of residential recyclable materials, in accordance with
26 chapter 81.77 RCW.

27 NEW SECTION. Sec. 404. LITTER TAX STUDY. (1) In consultation
28 with producer responsibility organizations registered with the
29 department of ecology under chapter 70A.--- RCW (the new chapter
30 created in section 501 of this act), the department of ecology and
31 the department of revenue must study:

32 (a) The impacts of producer requirements under chapter 70A.---
33 RCW (the new chapter created in section 501 of this act) on the
34 litter rates of covered products under that chapter; and

35 (b) Possible improvements to the structure of the litter tax
36 under chapter 82.19 RCW including administration, compliance, and
37 distribution of the tax and application of the tax to certain
38 products, for achieving the purpose of chapter 82.19 RCW. The

1 improvements to the structure of the litter tax to be studied under
2 this section may not include an increase in the rate of the litter
3 tax under chapter 82.19 RCW or an expansion of the types of covered
4 products under chapter 70A.--- RCW (the new chapter created in
5 section 501 of this act) that are subject to the litter tax.

6 (2) By January 1, 2029, the department of ecology, in
7 consultation with the department of revenue, must provide
8 recommendations to the appropriate committees of the legislature on:

9 (a) Applicability of the litter tax to covered products, based on
10 whether the purpose of the litter tax under chapter 82.19 RCW is
11 being achieved for those products by the requirements of producers
12 under chapter 70A.--- RCW (the new chapter created in section 501 of
13 this act); and

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

16 (3) This section expires July 1, 2029.

17 NEW SECTION. **Sec. 405.** RCW 70A.245.110 (Recycled content
18 account) and 2021 c 313 s 14 are each repealed, effective July 1,
19 2029.

20 NEW SECTION. **Sec. 406.** If any provision of this act or its
21 application to any person or circumstance is held invalid, the
22 remainder of the act or the application of the provision to other
23 persons or circumstances is not affected.

24 **Part Five**

25 **Codification Directives**

26 NEW SECTION. **Sec. 501.** Sections 101 through 128, 403, and 404
27 of this act constitute a new chapter in Title 70A RCW.

28 NEW SECTION. **Sec. 502.** Sections 201 through 212 of this act
29 constitute a new chapter in Title 70A RCW.

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