
Environment & Energy Committee

HB 1150

Brief Description: Improving Washington's solid waste management outcomes.

Sponsors: Representatives Berry, Donaghy, Ryu, Ramel, Farivar, Mena, Alvarado, Duerr, Reed, Fitzgibbon, Callan, Macri, Doglio, Fosse, Simmons, Street, Pollet, Kloba, Nance, Davis, Ormsby, Salahuddin and Hill.

Brief Summary of Bill

- Requires producers of certain paper products and packaging (covered PPP) to participate in and fund the operations of a producer responsibility organization (PRO) related to the post-consumer management of covered PPP and other recycling-related activities.

Hearing Date: 1/21/25

Staff: Jacob Lipson (786-7196).

Background:

Solid Waste Management in Washington.

Under the state's solid waste management laws, local governments are the primary government entity responsible for implementing state solid waste management requirements. The Department of Ecology (Ecology) also has certain roles in overseeing the administration of solid waste management laws. Ecology is responsible for working cooperatively with local governments as they develop their local solid waste management plans. County and city solid waste management plans are required to contain certain elements, including a waste reduction and recycling element, and a recycling contamination reduction and outreach plan. Under state laws addressing the local planning and management of solid waste, a waste management hierarchy is established for the collection, handling, and management of solid waste. This

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hierarchy prioritizes in descending order: (1) waste reduction; (2) recycling, with source separation of recyclable materials as the preferred method; (3) energy recovery, incineration, or landfill of separated waste; and (4) energy recovery, incineration, or landfill of mixed municipal solid wastes.

The Utilities and Transportation Commission (UTC) regulates private service providers that transport solid waste, garbage, and recyclables from residential sites. The certificate to transport garbage and recyclables sets the geographic areas in which the service provider is authorized to collect waste. Cities and towns have the authority to provide their own solid waste collection services or to contract for solid waste collection services, including collection of source-separated recyclable materials. Counties may contract for the collection of source-separated recyclable materials in unincorporated areas of the county. Solid waste collection services provided or contracted by cities and towns or contracted by counties are not subject to UTC regulation. Materials collected for recycling are transported to material recovery facilities which receive, compact, repackage, or sort materials for the purposes of recycling.

Extended Producer Responsibility and Product Stewardship Programs.

The Legislature has enacted laws that require the establishment of extended producer responsibility or product stewardship programs for the management of six types of products: (1) electronic products; (2) light bulbs that contain mercury; (3) photovoltaic solar panels; (4) pharmaceuticals; (5) paint; and (6) batteries.

In general, the state's extended producer responsibility and product stewardship programs require producers to participate in a stewardship organization or program that is responsible for the collection, transport, and end-of-life management of products covered by each program. Ecology is responsible for the oversight of the state's extended producer responsibility and product stewardship programs, with the exception of the Pharmaceutical Stewardship Program, which is overseen by the Department of Health.

Postconsumer Recycled Content Requirements.

In 2021, the Legislature established minimum recycled content requirements applicable to three categories of plastic products or products in plastic containers: trash bags, household and personal care product containers, and plastic beverage containers. Producers subject to minimum postconsumer recycling content (PCRC) requirements were required to register with Ecology and pay fees to cover Ecology's administrative costs related to minimum recycled content standards beginning in 2022.

Summary of Bill:

Producer Participation in a Producer Responsibility Organization.

Producers of paper products and packaging (covered PPP) must participate in a producer responsibility organization (PRO) that is required to develop, implement, and finance a statewide program for covered PPP. The program must encourage redesign to reduce environmental and human health impacts and to reduce generation of covered PPP waste. Only one PRO, other than

any individual producers registering as a PRO, may be formed for the first plan implementation period.

- For each covered material, a single specified person—either the material's manufacturer, brand licensee, brand owner, importer of record, distributor of the material in Washington, or another person assigned contractual responsibility as a producer—is defined as the producer responsible for participation in a PRO. Producers do not include government entities, nonprofit organizations, or entities that introduce de minimis volumes of covered PPP.
- Packaging is defined to include various materials, including single-use items that facilitate food or beverage consumption. Fourteen categories of materials are exempted from qualifying as covered PPP, including packaging for products like medical devices, drugs, hazardous materials, products that are distributed only to commercial or business entities, or that meet specified recycling rates and other criteria. Producers and PROs may also petition Ecology to temporarily exclude certain categories of packaging from being covered PPP.

Significant registration and plan implementation deadlines applicable to producers and PROs include:

- By January 1, 2026, each producer must appoint a PRO.
- By March 1, 2026, a PRO must submit an annual registration to Ecology on behalf of its producers.
- By July 1, 2026 a producer must be a member of a registered PRO.
- By September 1, 2026, a PRO must submit an annual registration fee to Ecology to fund Ecology's costs to implement, administer, and enforce Ecology's PRO-related duties. The initial 2026 registration fee is to be a one-time payment to Ecology to cover all of Ecology's costs through June 30, 2027.
- By October 1, 2028, and every five years after, a PRO must submit a plan to Ecology for approval.
- By March 1, 2029, a producer that is not a member of a PRO may not introduce covered materials into Washington.
- By January 1, 2030, or within 6 months of plan approval, a PRO must implement an approved plan.
- By July 1, 2031, a PRO must submit an annual report to Ecology.

In implementing the program, PROs must meet a variety of specific obligations to enable Ecology oversight and with respect to the PRO's relationship with its member producers. If more than one PRO is established, a coordinating body and process to prevent redundancy must be established.

An advisory council is established to review all activities by PROs, and to advise Ecology and PRO implementation of their duties, including a number of specific named responsibilities. Ecology must establish the advisory council and appoint 19 advisory council members

representing specified interests by January 1, 2026. Ecology must provide administrative and operating support to the council.

Plans and Program Funding.

By October 1, 2028, and every 5 years afterwards, a PRO must submit a plan to Ecology describing the proposed operation of programs that incorporate the findings and results of needs assessments. A PRO must submit a draft plan or plan amendment to the advisory council for comment at least 60 days prior to submitting the plan to Ecology. Ecology must review draft plans or plan amendments submitted by PROs and must approve the plan or amendment, deny the plan or amendment, or request additional information on the plan or amendment. Draft plans and plan amendments must also be posted on Ecology's website for public comment prior to Ecology approval.

Plans must include 22 specified categories of information, including any categories of information required by Ecology by rule. As a component of their plan, PROs must also submit a contingency plan demonstrating how the activities in the plan will continue to be carried out by another entity, if needed, in the event that the PRO can no longer carry out plan implementation. PROs must develop and maintain a public website containing specified information, and must implement education and outreach activities meeting specified standards and outcomes.

A PRO may charge member producers a fee using a method it determines to be equitable, so that the aggregate fees charged to member producers are sufficient to pay the PROs costs in full until the PRO has a plan approved by Ecology. A PRO with an approved plan must annually collect a fee from each member producer that varies by the amount of the producer's covered PPP, reflects program costs for different types of covered PPP, discourages the use of covered PPP that are not on an Ecology-adopted statewide list for collection, incentivizes the use of materials and designs that reduce environmental and human health impacts of covered PPP, and meets other criteria. Fees collected from members may not be used for lobbying or political advocacy activities that would require reporting to the Public Disclosure Commission.

Statewide Lists, Covered PPP Collection Requirements, and Needs Assessment.

Ecology must develop a list of covered PPP determined to be recyclable or compostable statewide. Ecology must complete the initial statewide lists by October 1, 2026, and publish updated lists within 30 days of approved a PRO's plan, taking into account changes proposed in the PRO's plan. In developing statewide lists, Ecology must distinguish between:

- materials suitable for residential recycling collection;
- materials suitable for residential composting collection;
- materials suitable for public place collection; and
- materials suitable for alternative collection at non-residential collection.

Ecology must consult with specified parties, including the advisory council, and consider 13 specified criteria in developing the lists. Ecology may select a third-party consultant to help with statewide list development. A PRO may propose a covered PPP for exclusion or addition to a

statewide list.

Materials that are not identified by Ecology as suitable for residential collection may not be collected as part of a residential recycling program, unless the materials are collected as part of a pilot program of limited duration and geographic scope. Collection services for covered PPP determined to be suitable for residential recycling collection must be available wherever residential garbage collection services are available, except where a county adopts an ordinance specifying that covered PPP on the residential recycling collection list must instead be collected through drop-off collection in areas of the county in which solid waste collection is regulated by the Utilities and Transportation Commission (UTC).

PROs must implement an alternative collection program meeting specified criteria for materials on the alternative collection list developed by Ecology.

By December 31, 2026, Ecology must complete a preliminary needs assessment that uses the statewide lists developed by Ecology in October, 2026, and that considers information from recent recycling-focused assessments and reports carried out by Ecology. The preliminary needs assessment must include 11 types of specified contents, including information related to volumes of introduced and collected covered PPP, and current recycling and composting system infrastructure, capacity, and services provided.

The needs assessment must be updated to include additional information by December 31, 2027, and updated every five years afterwards. The updated needs assessments must include 18 additional types of specified contents, including evaluations of existing waste systems, recycling and other waste management outcome rates, and proposed solid waste management outcome rates, collection methods, and infrastructure investments.

Ecology may adjust the content of specific needs assessments to inform upcoming PRO plans. Ecology must initiate a consultation process in carrying out needs assessments, and must contract with a third party to conduct needs assessments. Draft needs assessments must be made available for comment, and Ecology must respond in writing to needs assessment comments and recommendations of a PRO or the advisory council.

Service Providers, Material Recovery Facilities, and Infrastructure.

Beginning in January, 2026, entities—including government entities—that provide services for covered PPP (service providers) must register with Ecology by submitting specified information. Material recovery facilities (MRFs) receiving covered PPP must register with Ecology as service providers and must submit additional information to Ecology related to the volumes and quality of covered PPP at the MRF and specified aspects of MRF operations.

As applicable, service providers that receive PRO reimbursement under a plan must provide covered services, including collection, transfer, transport, processing, recovery, preparing, or other management, for:

- covered PPP included on statewide collection lists adopted by Ecology;
- a refill system; or
- reusable covered PPP.

Service providers must:

- register annually with Ecology;
- submit invoices to the PRO;
- meet performance standards in the PRO's plan;
- ensure that covered PPP are sent to responsible markets that meet specified environmental, health, and other criteria;
- provide documentation to the PRO related to services provided; and
- display the service provider's price, minus PRO reimbursement, when invoicing customers.

Reimbursements for covered services may only be provided to service providers that meet performance standards established in a PRO plan. PRO plans must provide a methodology for reimbursement rates that consider estimated revenue by service providers from the sale of covered PPP. Reimbursement rates must be annually updated, and must be set based on specified collection, transfer, sorting, and processing costs. Service providers retain all revenue from the sale of covered PPP unless otherwise agreed to by the service provider. Service providers may charge a fee for covered services of covered PPP to the extent that PRO reimbursement does not cover all costs of services. A PRO must establish a reimbursement dispute resolution process using third-party mediators.

Government entities are not required to operate as service providers under a plan, but government entities are eligible to be registered service providers that receive reimbursement. The existing authority of counties and cities to provide waste management services to residents or to contract for waste management services is not restricted.

PROs must use a competitive bidding process and publicly post bid opportunities for infrastructure investments, except that preference must be given to existing facilities and providers of services. Producers and PROs may not own any portion of infrastructure used to fulfill covered PPP obligations, other than ownership stakes that pre-date 2025, or if a bidding process does not result in any service provider bidding on a contract.

Owners or operators of a MRF must ensure workers are paid minimum industry standard compensation. The minimum standard compensation is a wage and usual benefits package equal to or greater than the combined hourly wage and usual benefits package set by a collective bargaining agreement covering similar or equivalent work in a geographic area. If there is more than one collective bargaining agreement, the higher rate applies. The Department of Labor and Industries is to investigate and enforce these wage requirements.

Covered PPP Performance Targets and Statewide Requirements.

Each PRO must, based on the needs assessment, propose performance targets for reuse rates,

return rates, recycling rates for materials delivered to responsible markets, composting rates, and plastic source reduction and postconsumer recycled content (PCRC) rates. PRO plans must provide separate methodologies for determining whether each category of target is being met, and Ecology may require that a PRO obtain third-party certification of performance target activities or achievements. Ecology must establish a process for a PRO to propose to count materials sent to facilities that use alternative recycling processes towards recycling rates, and may approve a PRO's proposal based on the evaluation of specified criteria. A PRO that fails to meet a performance target in an approved plan must file an explanation with Ecology within 90 days of the PRO's annual report and propose a plan amendment specifying changes in operations designed to achieve the performance target.

Ecology must establish statewide rate requirements and dates by which those requirements must be met for recycling, composting, reuse, return, plastic source reduction, and PCRC in covered PPP. Statewide rate requirements must be reviewed by Ecology every five years, and be updated if warranted. PROs must ensure the statewide rate requirements are met.

Department of Ecology Administration and Enforcement.

Ecology may adopt rules to implement, administer, and enforce requirements related to PROs and producers. Ecology must follow specified processes for calculating and receiving the fees that PROs must pay to cover Ecology's oversight costs. If requested by Ecology for purposes of determining producer or PRO compliance or for implementing requirements related to producers and PROs, a person must provide Ecology any information that person has or may reasonably obtain.

Ecology may impose civil penalties of up to \$1,000 per violation per day on a producer or PROs for initial violations and up to \$10,000 per violation per day for subsequent violations. Ecology must provide written notification and offer information to producers out of compliance, providing at least one notice of violation prior to assessing a penalty and providing 60 days for the producer to come into compliance. Ecology may issue corrective action orders, revoke a PRO's plan approval and require implementation of the contingency plan, and take other specified enforcement actions related to a PRO. Penalties and orders are appealable to the Pollution Control Hearings Board. Upon a request from the advisory council, Ecology must consider the appropriateness of the use an enforcement authority.

Local Solid Waste Planning and Solid Waste Collection Company Oversight.

Beginning January 1, 2030, the programs for the collection of source-separated residential materials under local comprehensive solid waste management plans must:

- provide for curbside collection of source-separated recyclable materials from single-family and multi-family residences wherever curbside garbage collection services are provided;
- include covered PPP on the statewide residential recycling collection list adopted by Ecology; and
- must include service standards established under PRO plans for curbside collection frequency, container size, and method of collection.

Local comprehensive solid waste management plans may incorporate PRO programs by reference to fulfill source-separated recyclable material collection requirements. Local solid waste comprehensive plans must be amended by January 1, 2030 to align with PRO-related provisions, or else a model comprehensive solid waste plan amendment developed by Ecology will apply in the jurisdiction.

PROs may periodically provide educational materials promoting household waste reduction and recycling to public and private waste haulers.

The UTC must review PRO reimbursement of service providers and require solid waste collection companies regulated by the UTC to deliver covered PPP only to responsible markets that meet specified environmental, health, and other criteria. The UTC, in its duties providing oversight of solid waste collection company rates, must include costs related to curbside recycling collection performed under a PRO plan in the solid waste collection company's rate base.

Reporting Requirements and Studies.

Beginning in 2031, a PRO must submit an annual report covering the preceding calendar year's plan implementation activities and data. Ecology must review annual reports submitted by a PRO and make them available for public comment. If an annual report does not meet requirements, Ecology must notify the PRO of the reasons for denial and the PRO must then submit a revised annual report.

In consultation with any PROs, Ecology and the Department of Revenue (DOR) must study the impacts of producer requirements on the litter rates of covered PPP, and possible improvements to the structure of the litter tax that do not include increasing the tax rate or expanding the types of covered PPP under the PRO that are subject to the tax. Ecology, in consultation with the DOR, must provide recommendations to the Legislature on the applicability of the litter tax to covered PPP and improvements to the litter tax structure by January 1, 2030.

By January 31, 2032, Ecology must complete a third-party contracted study that evaluates facilities managing covered PPP, including the facilities' working conditions, barriers to solid waste operations ownership by women and minorities, and access by multi-family building residents to solid waste collection infrastructure. Recommended actions from the study must be considered for inclusion as part of future PRO plans.

By September 1, 2038, Ecology must contract with an independent consultant to analyze the first seven years of program implementation and submit a report to the Legislature.

Other.

Beginning in 2027, each PRO must annually fund and implement a reuse financial assistance program (Reuse Program) to reduce the negative environmental impacts of covered PPP through reuse. PROs must collectively fund the Reuse Program at \$5 million in 2027; an amount which is subject to an annual inflation adjustment. Public and private entities are eligible recipients of

financial assistance under the Reuse Program, and the program must solicit applications using an open and competitive process and select applications through an evaluation of environmental, human health, social, and economic benefits, cost-effectiveness, and the needs of economically distressed or overburdened communities. A PRO may own infrastructure used for purposes of the Reuse Program.

Certain activities related to producer and PRO responsibilities are exempt from state antitrust laws and provided immunity from federal antitrust laws.

It is declared to be the Legislature's intent that if a bottle deposit return system is enacted in the future, it will be harmonized with PRO-related requirements in specified ways and must include a two-year transition period before the expiration of an approved plan.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.