
ENGROSSED SECOND SUBSTITUTE SENATE BILL 5284

State of Washington

69th Legislature

2025 Regular Session

By Senate Ways & Means (originally sponsored by Senators Lovelett, Shewmake, Nobles, Bateman, Salomon, Saldaña, Stanford, C. Wilson, Frame, Pedersen, Hasegawa, Lias, Orwall, Slatter, and Valdez)

READ FIRST TIME 02/28/25.

1 AN ACT Relating to improving Washington's solid waste management
2 outcomes; amending RCW 70A.205.045, 70A.205.500, 81.77.030,
3 81.77.160, 81.77.185, and 70A.245.100; reenacting and amending RCW
4 43.21B.110, 43.21B.300, and 49.48.082; adding a new section to
5 chapter 49.46 RCW; adding a new chapter to Title 70A RCW; creating
6 new sections; prescribing penalties; and providing an expiration
7 date.

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

9 **Part One**

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

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

14 (a) Washington's statewide waste recovery rate has been generally
15 static since 2011 and Washington is not meeting the statewide goal of
16 50 percent recycling established in 1989; and

17 (b) Many residents, particularly those who live in rural areas
18 and in multifamily residences, do not have access to convenient or
19 affordable curbside recycling, and must rely on taking recyclables to
20 drop box locations, and that extended producer responsibility

1 programs could make curbside recycling available and affordable for
2 most people in the state.

3 (2) (a) It is the intent of the legislature to require extended
4 producer responsibility programs for consumer packaging and paper
5 products to be implemented in a manner that involves producers in
6 material management from design concept to end of life.

7 (b) It is intended that these programs be responsibly planned and
8 funded in a manner that minimizes negative impacts to the environment
9 and minimizes risks to public health and worker health and safety. It
10 is also intended that these programs build and expand on the existing
11 waste and recycling system's infrastructure and reliance on the
12 authority of local governments and the utilities and transportation
13 commission in solid waste management.

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

25 NEW SECTION. **Sec. 102.** DEFINITIONS. The definitions in this
26 section apply throughout this chapter unless the context clearly
27 requires otherwise.

28 (1) "Advisory council" means the council established in section
29 105 of this act.

30 (2) "Alternative recycling process" means a recycling process
31 that occurs other than through purely physical means.

32 (3) (a) "Beverage" means a drinkable liquid intended for human
33 oral consumption.

34 (b) "Beverage" does not include: (i) A drug regulated under the
35 federal food, drug, and cosmetic act, 21 U.S.C. Sec. 301 et seq.;
36 (ii) 100 percent fluid milk; (iii) infant formula; or (iv) a meal
37 replacement liquid.

38 (4) "Beverage container" means any container in which a producer
39 originally prepackaged and sealed a beverage.

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

4 (6) "Collection rate" means the amount of a covered material by
5 covered materials type collected by service providers and transported
6 for recycling or composting divided by the total amount of the type
7 of a covered material by covered materials type introduced by the
8 relevant unit of measurement established in the plan.

9 (7) "Compostable" means a product that is capable of composting
10 in a composting system and is in compliance with the requirements for
11 a product labeled as compostable under chapter 70A.455 RCW.

12 (8) "Composting" means the controlled microbial degradation of
13 source separated compostable materials to yield a humus-like product.

14 (9) "Composting rate" means the amount of compostable covered
15 material that is managed through composting, divided by the total
16 amount of compostable covered material introduced by the relevant
17 unit of measurement.

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

21 (11) "Contamination" means:

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

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

26 (12) "Covered entity" means a person or location that receives
27 covered services for covered materials in accordance with the
28 requirements of this chapter, including:

29 (a) A single-family residence;

30 (b) A multifamily residence; and

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

34 (13)(a) "Covered material" means packaging and paper products
35 introduced into the state.

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

37 (14) "Covered materials type" means a singular and specific type
38 of material, such as paper, plastic, metal, or glass, that is a
39 covered material and that:

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

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

7 (15)(a) "Covered services" means collecting, transferring,
8 transporting, sorting, processing, recovering, preparing, or
9 otherwise managing for purposes of waste reduction, refill, reuse,
10 recycling, composting, or disposal of contamination or residuals.

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

13 (i) Resource recovery through mixed municipal solid waste
14 composting or incineration; or

15 (ii) Land disposal.

16 (16) "De minimis producer" means a producer that:

17 (a) In their most recent fiscal year introduced less than one ton
18 of covered materials;

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

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

22 (ii) Beginning January 1, 2031, less than \$5,000,000, as adjusted
23 for inflation. The department must use the consumer price index for
24 urban wage earners to calculate the annual rate of inflation
25 adjustment effective January 1st of each year, beginning January 1,
26 2031; or

27 (c) Is an agricultural employer, as defined in RCW 19.30.010,
28 regardless of where the agricultural employer is located, with less
29 than \$5,000,000, as adjusted for inflation as described in (b) of
30 this subsection, in gross revenue in Washington from consumer sales
31 of agricultural commodities sold under the brand name of the
32 agricultural employer.

33 (17) "Department" means the department of ecology.

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

37 (19) "Exempt materials" means materials, or any portion of
38 materials, that are:

39 (a) Packaging for infant formula, as defined in 21 U.S.C. Sec.
40 321(z);

- 1 (b) Packaging for medical food, as defined in 21 U.S.C. Sec.
2 360ee(b)(3);
- 3 (c) Packaging for a fortified oral nutritional supplement used by
4 persons who require supplemental or sole source nutrition to meet
5 nutritional needs due to special dietary needs directly related to
6 cancer, chronic kidney disease, diabetes, malnutrition, or failure to
7 thrive, as those terms are defined by the *International*
8 *Classification of Diseases*, tenth revision;
- 9 (d) Packaging for a product regulated as a drug, medical device,
10 or dietary supplement by the United States food and drug
11 administration, including associated components and consumable
12 medical equipment, under the federal food, drug, and cosmetic act (21
13 U.S.C. Sec. 321 et seq.), or a product regulated as a biologic or
14 vaccine by the United States food and drug administration under the
15 public health service act (42 U.S.C. Sec. 201 et seq.);
- 16 (e) Packaging for a medical equipment or product used in medical
17 settings that is regulated by the United States food and drug
18 administration, including associated components and consumable
19 medical equipment;
- 20 (f) Packaging for drugs, biological products, parasiticides,
21 medical devices, or in vitro diagnostics that are used to treat, or
22 that are administered to, animals and are regulated by the United
23 States food and drug administration under the federal food, drug, and
24 cosmetic act (21 U.S.C. Sec. 301 et seq.) and by the United States
25 department of agriculture under the federal virus-serum-toxin act (21
26 U.S.C. Sec. 151 et seq.);
- 27 (g) Packaging for products regulated by the United States
28 environmental protection agency under the federal insecticide,
29 fungicide, and rodenticide act (7 U.S.C. Sec. 136 et seq.);
- 30 (h) Packaging used to contain liquefied petroleum gas and are
31 designed to be refilled;
- 32 (i) Packaging used to contain hazardous or flammable products
33 classified by the 2012 federal occupational safety and health
34 administration hazard communication standard, 29 C.F.R. Sec.
35 1910.1200 (2024), that prevent the packaging from being reduced or
36 made reusable, recyclable, or compostable, as determined by the
37 department;
- 38 (j) Packaging that is associated with products managed through a
39 paint stewardship plan approved under chapter 70A.515 RCW;

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

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

5 (m) Packaging used for bulk construction materials;

6 (n) Covered materials that:

7 (i) A producer distributes to another producer;

8 (ii) Are subsequently used to contain a product and the product
9 is distributed to a commercial or business entity for the production
10 of another product; and

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

14 (o) Covered materials for which the producer demonstrates to the
15 department that the covered material meets all of the following
16 criteria:

17 (i) The material is not collected through a residential recycling
18 collection service;

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

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

22 (iv) (A) The producer annually demonstrates to the department that
23 the material has had a state recycling rate of 65 percent for three
24 consecutive years, until December 31, 2029. Beginning January 1,
25 2030, the producer must demonstrate to the department every two years
26 that the material has had a state recycling rate of at least 70
27 percent annually; or

28 (B) The producer annually demonstrates to the department that the
29 material is directly managed by the producer and has had a reuse or
30 recycling rate of 65 percent for three consecutive years, until
31 December 31, 2029. Beginning January 1, 2030, the producer must
32 demonstrate to the department every two years that the material
33 controlled by the producer has had a reuse or recycling rate of at
34 least 70 percent annually; and

35 (v) If only a portion of the material sold in or into the state
36 by a producer meets the criteria of (o)(i) of this subsection, only
37 the portion of the material that meets that criteria is an exempt
38 material and any portion that does not meet the criteria is a covered
39 material for purposes of this chapter.

40 (20) "Government entity" means any:

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

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

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

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

11 (21) "Individual plan" means a plan submitted by a producer that
12 registers with the department as a producer responsibility
13 organization to address the covered materials of the producer.

14 (22) "Introduce" means to sell, offer for sale, distribute, or
15 ship a product within or into this state.

16 (23) "Material recovery facility" means any facility that
17 receives, compacts, repackages, or sorts source separated solid waste
18 for the purpose of recycling.

19 (24) "Overburdened communities" means the overburdened
20 communities identified and prioritized by the department under RCW
21 70A.02.050(1)(a).

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

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

27 (26) "Paper product" means paper sold or supplied to a consumer
28 for personal, noncommercial use, including flyers, brochures,
29 booklets, catalogs, magazines, printed paper, and all other paper
30 materials except for: (a) Bound books; (b) conservation-grade and
31 archival-grade paper; (c) newspapers, including supplements or
32 enclosures; (d) magazines that have a circulation of fewer than
33 95,000 and that includes content derived from primary sources related
34 to news and current events; (e) copy paper; (f) paper for use in
35 building construction; and (g) paper that could reasonably be
36 anticipated to become unsafe or unsanitary to handle.

37 (27)(a) "Plastic source reduction" means the reduction in the
38 amount of covered plastic material introduced by a producer relative
39 to a baseline year of 2023, or relative to an alternative baseline
40 year of no earlier than 2013 where a producer submits data

1 documenting the plastic source reduction to a producer responsibility
2 organization. Methods of source reduction include, but are not
3 limited to, shifting covered material to reusable or refillable
4 packaging or a reusable product, eliminating unnecessary packaging,
5 or reducing the packaging to product ratio. "Plastic source
6 reduction" must include elimination, which means the removal of
7 plastic covered materials.

8 (b) "Plastic source reduction" does not include either of the
9 following:

10 (i) Replacing a recyclable or compostable covered material with a
11 nonrecyclable or noncompostable covered material or a covered
12 material that is less likely to be recycled or composted; or

13 (ii) Switching from virgin covered material to postconsumer
14 recycled content, except as allowed under an alternative compliance
15 formula in section 115(6) of this act.

16 (28) "Postconsumer recycled content" has the same meaning as
17 defined in RCW 70A.245.010.

18 (29)(a) "Producer" means the following person responsible for
19 compliance with requirements under this chapter for a covered
20 material introduced into the state:

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

23 (A) If the item is sold in or with packaging under the brand of
24 the item manufacturer or is sold in packaging that lacks
25 identification of a brand, the producer is the person that
26 manufactures the item;

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

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

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

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

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

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

9 (B) For packaging used to ship the item to a consumer, the
10 producer of the packaging is the person that packages the item to be
11 shipped to the consumer;

12 (iii) For packaging that is a covered material and is not
13 included in (a)(i) and (ii) of this subsection, the producer of the
14 packaging is the person that first distributes the item in or into
15 this state;

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

18 (v) For paper products not described in (a)(iv) of this
19 subsection:

20 (A) If the paper product is sold under the manufacturer's own
21 brand, the producer is the person that manufactures the paper
22 product;

23 (B) If there is no person to which (a)(v)(A) of this subsection
24 applies, the producer is the person that is the owner or licensee of
25 a brand or trademark under which the paper product is used in a
26 commercial enterprise, sold, offered for sale, or distributed in or
27 into this state, whether or not the trademark is registered in this
28 state;

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

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

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

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

4 (A) Where another person has mutually signed an agreement with a
5 producer as defined in (a)(i) through (v) of this subsection that
6 contractually assigns responsibility to the person as the producer,
7 and the person has joined a registered producer responsibility
8 organization as the responsible producer for that covered material
9 under this chapter. If another person is assigned responsibility as
10 the producer under this subsection, the producer under (a)(i) through
11 (v) of this subsection must provide written certification of that
12 contractual agreement to the producer responsibility organization.
13 The following persons are not eligible to be the assigned recipient
14 of responsibility as a producer under this subsection: (I) A person
15 who produces an agricultural commodity introduced under the brand or
16 trademark of another manufacturer or person; or (II) a distributor of
17 a beverage sold in a beverage container; and

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

22 (b) "Producer" does not include:

23 (i) Government entities;

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

26 (iii) De minimis producers.

27 (30) "Producer responsibility organization" means:

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

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

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

36 (31) "Program" means the activities conducted to implement an
37 approved plan.

38 (32)(a) "Public place" means an indoor or outdoor location open
39 to and generally used by the public and to which the public is
40 permitted to have access including, but not limited to, streets,

1 sidewalks, plazas, town squares, public parks, beaches, forests, or
2 other public land open for recreation or other uses, and
3 transportation facilities such as bus and train stations, airports,
4 and ferry terminals.

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

8 (33) "Recycling" means transforming or remanufacturing covered
9 materials into usable or marketable materials for use other than
10 landfill disposal or incineration and does not include reuse or
11 composting.

12 (34) "Recycling rate" means the amount of covered materials, in
13 aggregate or by individual covered materials type, delivered to
14 responsible markets for recycling in a calendar year divided by the
15 total amount of covered materials introduced by the relevant unit of
16 measurement and excluding covered materials that are reusable or
17 compostable.

18 (35) "Refill" means the continued use of a covered material by a
19 consumer through a system that is:

20 (a) Intentionally designed and marketed for repeated filling of a
21 covered material to reduce demand for new production of the covered
22 material;

23 (b) Supported by adequate logistics and infrastructure to provide
24 convenient access to consumers; and

25 (c) Compliant with all applicable federal, state, and local
26 statutes, rules, ordinances, and other laws governing health and
27 safety.

28 (36) "Responsible market" means an entity that:

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

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

36 (c) If the market operates in the state, manages waste according
37 to the state's solid waste management hierarchy established in RCW
38 70A.205.005; and

39 (d) Meets the minimum operational standards adopted under a
40 producer responsibility organization plan to protect the environment,

1 public health, worker health and safety, and minimize adverse impacts
2 to socially vulnerable populations.

3 (37) "Responsible producer" means a producer that is not a de
4 minimis producer.

5 (38) "Retail establishment" includes any person, corporation,
6 partnership, business, facility, vendor, organization, or individual
7 that sells or provides merchandise, goods, or materials directly to a
8 customer.

9 (39) "Return rate" means the amount of reusable covered material
10 in aggregate or by individual covered materials type, collected for
11 reuse by a producer or service provider in a calendar year, divided
12 by the total amount of reusable covered materials introduced by the
13 relevant unit of measurement.

14 (40) "Reusable" means capable of reuse.

15 (41) "Reuse" means the return of a covered material to the
16 marketplace and the continued use of the covered material by a
17 producer or service provider when the covered material is:

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

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

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

25 (d) Compliant with all applicable federal, state, and local
26 statutes, rules, ordinances, and other laws governing health and
27 safety.

28 (42) "Reuse rate" means the share of units of a reusable covered
29 material introduced into the state in a calendar year that are
30 demonstrated and deemed reusable in accordance with an approved plan.

31 (43) "Service provider" means an entity that provides covered
32 services for covered materials. A government entity that provides,
33 contracts for, or otherwise arranges for another party to provide
34 covered services for covered materials within its jurisdiction may be
35 a service provider regardless of whether it provided, contracted for,
36 or otherwise arranged for similar services before the approval of the
37 applicable plan.

38 (44) "Socially vulnerable population" means:

39 (a) Any person residing in a census tract that contains a high
40 overall social vulnerability index as measured using the United

1 States center for disease control and the agency for toxic substances
2 and disease registry's social vulnerability index, as it existed as
3 of January 1, 2025, for the most recent year such data are available;
4 or

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

10 (45) "Third-party certification" means certification by an
11 accredited independent organization that a standard or process
12 required by this chapter, or by a plan approved under this chapter,
13 has been achieved.

14 (46) "Toxic substance" means chemicals that are regulated under
15 chapter 70A.222, 70A.350, 70A.430, or 70A.560 RCW.

16 (47) "Vulnerable populations" has the same meaning as defined in
17 RCW 70A.02.010.

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

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

26 (a) Contact information for a person responsible for implementing
27 an approved plan;

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

33 (c) A plan for recruiting additional member producers and
34 executing written agreements confirming producers will operate under
35 an approved plan administered by the producer responsibility
36 organization;

37 (d) A list of current board members and the executive director if
38 different than the person responsible for implementing approved
39 plans; and

1 (e) Documentation demonstrating adequate financial responsibility
2 and financial controls to ensure proper management of funds and
3 payment of the annual registration fee to the department.

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

9 (4) By September 1, 2026, and each May 1st thereafter, a producer
10 responsibility organization must submit an annual registration fee to
11 fund all costs of the department to implement, administer, and
12 enforce this chapter, including the costs of the department of labor
13 and industries to implement and enforce section 304 of this act and
14 RCW 49.48.082.

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

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

20 (b) Through a producer responsibility organization, implement and
21 finance a statewide program for packaging and paper products in
22 accordance with this chapter that encourages redesign to reduce
23 environmental impacts and human health impacts and that reduces
24 generation of covered material waste through waste reduction, refill,
25 reuse, recycling, and composting and by providing for the collection,
26 transportation, and processing of used covered materials for reuse,
27 recycling, and composting;

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

30 (d) Comply with all other applicable requirements under this
31 chapter.

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

36 (3) A producer responsibility organization must:

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

38 (ii)(A) Except as provided in (a)(ii)(B) of this subsection, by
39 September 1, 2026, submit a one-time payment to the department, in

1 lieu of the registration fee required in section 103 of this act, in
2 an amount determined by the department, to cover the costs of the
3 department under this chapter from the effective date of this section
4 through June 30, 2027, including the costs determined by the
5 department of labor and industries to implement and enforce section
6 304 of this act and RCW 49.48.082;

7 (B) By September 1, 2026, a producer responsibility organization
8 that is an individual producer registered as a producer
9 responsibility organization must make a one-time payment in an amount
10 determined by the department to cover any incremental costs to the
11 department under this chapter from the effective date of this section
12 through June 30, 2027, associated with the registration of the
13 individual producer as a producer responsibility organization;

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

16 (b) Establish an initial producer fee structure to fund the
17 initial implementation of the program, to be used until the producer
18 responsibility program has an approved plan, and collect fees
19 annually from registered producers;

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

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

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

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

30 (g) Expel a producer from the producer responsibility
31 organization if efforts to return the producer to compliance with the
32 plan or the requirements of this chapter are unsuccessful and notify
33 the department of the producer's expulsion;

34 (h) Consider and respond in writing to comments received from the
35 advisory council, including justifications for not incorporating
36 advisory council recommendations;

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

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

4 (k) Assist service providers to identify and use responsible
5 markets;

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

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

11 (n) Comply with all other applicable requirements of this
12 chapter.

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

17 (a) Plans of all producer responsibility organizations into a
18 single plan that implements all requirements of this chapter and
19 encompasses all producers when submitted to the department for
20 approval;

21 (b) Annual reports of all producer responsibility organizations
22 into a single annual report that covers all requirements of this
23 chapter and encompasses all producers when submitted to the
24 department; and

25 (c) Payments between all registered producer responsibility
26 organizations to achieve equitable apportionment of funding for the
27 reuse financial assistance program and coordination of the program's
28 administration.

29 (5)(a) Each producer responsibility organization must annually
30 fund and implement a reuse financial assistance program to reduce the
31 negative environmental impacts of covered materials through reuse.
32 The reuse financial assistance program must collectively be funded by
33 registered producer responsibility organizations. The funded amount
34 must be:

35 (i) At least \$5,000,000 beginning in 2029 and adjusted annually
36 thereafter for inflation. The producer responsibility organization
37 must use the consumer price index for urban wage earners to calculate
38 the annual rate of inflation adjustment effective January 1st of each
39 year; and

1 (ii) Sufficient to achieve the reuse and return rate targets and
2 requirements established in section 115 of this act. If at any point
3 the department determines that reuse and return rate targets or
4 statewide requirements are not met, each producer responsibility
5 organization must increase annual contributions to and expenditures
6 from the reuse financial assistance program.

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

- 9 (i) Government entities;
10 (ii) Tribal governments;
11 (iii) Nonprofit organizations; and
12 (iv) Private organizations.

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

- 17 (i) The environmental benefits of the activity;
18 (ii) The human health benefits of the activity;
19 (iii) The social and economic benefits of the activity;
20 (iv) The cost-effectiveness of the activity; and
21 (v) The needs of economically distressed or overburdened
22 communities.

23 (d) The producer responsibility organization must consult with
24 the advisory council in determining the criteria in (c) of this
25 subsection, evaluating and selecting applications, and in
26 administering the reuse financial assistance program under this
27 subsection.

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

33 (7) The activities authorized by this chapter require
34 collaboration among producers. These activities will enable the waste
35 reduction, collection, recycling, composting, and disposal of covered
36 materials in Washington and are therefore in the best interest of the
37 public. The benefits of collaboration, together with active state
38 supervision, outweigh potential adverse impacts. Therefore, the
39 legislature exempts from state antitrust laws, and provides immunity
40 through the state action doctrine from federal antitrust laws,

1 activities that are undertaken in compliance with and pursuant to
2 this chapter, including activities that are reviewed or approved by
3 the department, that might otherwise be constrained by such laws. The
4 legislature does not intend and does not authorize any person or
5 entity to engage in activities not provided for by this chapter, and
6 the legislature neither exempts nor provides immunity for such
7 activities.

8 NEW SECTION. **Sec. 105.** ADVISORY COUNCIL. (1) The advisory
9 council is established to review all activities conducted by producer
10 responsibility organizations under this chapter and to advise the
11 department and producer responsibility organizations regarding the
12 implementation of this chapter.

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

16 (a) Two members representing manufacturers of covered materials
17 or a statewide or national trade association representing those
18 manufacturers;

19 (b) Two members representing recycling facilities that manage
20 covered materials;

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

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

25 (e) One member representing a statewide nonprofit environmental
26 organization;

27 (f) One member representing a community-based nonprofit
28 environmental justice organization;

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

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

33 (i) One member representing an entity that develops or offers for
34 sale covered materials that are designed for reuse or refill and
35 maintained through a reuse or refill system or infrastructure or a
36 statewide or national trade association that represents those
37 entities;

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

1 (k) One member representing tribal or indigenous solid waste
2 services organizations;

3 (l) Two members representing other interested parties or
4 additional members of interests represented under (a) through (k) of
5 this subsection, as determined by the department, prioritizing
6 representation of diverse communities, including marginalized groups,
7 to ensure the activities carried out under this chapter reflect their
8 perspectives;

9 (m) One nonvoting member representing each registered producer
10 responsibility organization; and

11 (n) One nonvoting member representing the department.

12 (3) In appointing members, the department:

13 (a) May not appoint members who are state legislators or
14 registered lobbyists;

15 (b) May not appoint members who are employees of a producer
16 required to be members of a producer responsibility organization
17 under this chapter; and

18 (c) Must endeavor to appoint members from all regions of the
19 state.

20 (4) (a) The member appointed to represent the department serves at
21 the pleasure of the department. All other members serve for a term of
22 four years, except that the initial term for nine of the initial
23 appointees must be two years so that membership terms are staggered.
24 Members may be reappointed but may not serve more than eight
25 consecutive years.

26 (b) A member may be removed by the department at any time. The
27 chair of the advisory council must inform the department of a member
28 missing three consecutive meetings. After the second consecutive
29 missed meeting, the chair of the advisory council must notify the
30 member in writing that the member may be removed for missing the next
31 meeting. If there is a vacancy on the advisory council for any
32 reason, the department shall make an appointment to become effective
33 immediately for the unexpired term.

34 (5) Advisory councilmembers that are representatives of tribes,
35 tribal or indigenous services organizations, community-based
36 organizations, or environmental nonprofit organizations must, if
37 requested, be compensated and reimbursed in accordance with RCW
38 43.03.050, 43.03.060, and 43.03.220.

39 (6) (a) A majority of the voting advisory councilmembers
40 constitutes a quorum. If there is a vacancy in the membership of the

1 advisory council, a majority of the remaining voting members of the
2 council constitutes a quorum.

3 (b) Action by the advisory council requires a quorum and a
4 majority of those present and voting. All members of the advisory
5 council, except the member appointed to represent the department and
6 the member appointed to represent the producer responsibility
7 organization, are voting members of the council.

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

11 (b) Meetings of the advisory council must comply with chapter
12 42.30 RCW, the open public meetings act.

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

16 (9) The department shall provide administrative and operating
17 support to the advisory council, including compensation in accordance
18 with subsection (5) of this section, and may contract with a third-
19 party facilitator to assist in administering the activities of the
20 advisory council, including establishing a website or landing page on
21 the department website.

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

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

35 (2) The department must:

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

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

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

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

6 (e) By March 1, 2026, accept the registration of producer
7 responsibility organizations and, if necessary, select the producer
8 responsibility organization required by subsection (3) of this
9 section;

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

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

14 (h)(i) By July 1, 2026, determine the one-time registration fee
15 in subsection (4)(c) of this section; and

16 (ii) By March 31, 2027, determine the annual registration fee in
17 subsection (4)(a) of this section;

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

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

24 (k) Beginning October 1, 2028, and periodically thereafter,
25 review and approve plans, as described in subsection (5) of this
26 section;

27 (l) By January 31, 2029, create a model comprehensive solid waste
28 plan amendment for use by cities and counties in lieu of updating,
29 amending, or revising a plan consistent with RCW
30 70A.205.045(7)(b)(i);

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

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

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

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

4 (q) Establish statewide requirements as required under section
5 115(10) of this act;

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

9 (s) Review confidentiality requests submitted under section 122
10 of this act;

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

13 (u) Review petitions to exempt materials, as required by section
14 125 of this act; and

15 (v) Establish a public website that includes:

16 (i) The most recent registration materials submitted by producer
17 responsibility organizations;

18 (ii) A list of registered service providers;

19 (iii) The most recent needs assessment;

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

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

23 (vi) The list of exempt materials;

24 (vii) Links to producer responsibility organization websites;

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

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

30 (3) By March 1, 2026, if registrations for more than one producer
31 responsibility organization, other than producers registering as
32 producer responsibility organizations, are submitted to the
33 department, the department must determine which proposed producer
34 responsibility organization can most effectively implement this
35 chapter until the first approved plan period ends. Until the
36 conclusion of the initial plan implementation period, producers of
37 covered materials that do not register as producer responsibility
38 organizations must join the producer responsibility organization
39 whose registration is approved by the department. This limitation
40 only applies for the purposes of program development and the initial

1 plan implementation period. After the first plan approved by the
2 department expires, the department may allow registration of more
3 than one producer responsibility organization.

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

6 (i) Determine a total annual registration fee to be paid by each
7 producer responsibility organization that is adequate to cover, but
8 not exceed, the costs to implement, administer, and enforce this
9 chapter, including the costs determined by the department of labor
10 and industries to implement and enforce section 304 of this act and
11 RCW 49.48.082, in the next fiscal year;

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

16 (iii) Until rules are adopted under (a) (ii) of this subsection,
17 issue a general order to all registered producer responsibility
18 organizations; and

19 (iv) Send notice to each producer responsibility organization of
20 fee amounts due, consistent with either the general order issued
21 under (a) (iii) of this subsection or rules adopted under (a) (ii) of
22 this subsection.

23 (b) The department must:

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

27 (ii) Apply any remaining annual fee payment funds from the most
28 recently closed fiscal year to the annual fee for the coming fiscal
29 year, if the collected annual fee exceeds the costs identified under
30 (a) (ii) of this subsection for the most recently closed fiscal year;
31 and

32 (iii) Increase annual fees for the coming fiscal year to cover
33 the costs identified under (a) (ii) of this subsection, if the
34 collected annual fee was less than the amount required to cover those
35 costs for a given year.

36 (c) By July 1, 2026, the department must determine the one-time
37 registration fee to be paid by each producer responsibility
38 organization that is adequate to cover, but not exceed, the costs to
39 implement, administer, and enforce this chapter from the effective
40 date of this section until June 30, 2027.

1 (5) The department must review and approve, approve with
2 conditions, deny, or request additional information for a draft plan
3 or draft amendment, including a contingency plan as required in
4 section 114 of this act, submitted by a producer responsibility
5 organization or coordinating body, within 120 days of receipt.

6 (a) The department must post the draft plan or plan amendment
7 update on the department's website and allow public comment for no
8 less than 45 days before approving, denying, or requesting additional
9 information on the draft plan or amendment.

10 (b) (i) If the department denies or requests additional
11 information for a draft plan or amendment, the department must
12 provide the producer responsibility organization with the reasons, in
13 writing, that the plan or amendment does not meet the plan
14 requirements of section 113 of this act. The producer responsibility
15 organization has 60 days from the date that the rejection or request
16 for additional information is received to submit to the department
17 any additional information necessary for the department's approval.
18 The department must review and approve or disapprove the revised
19 draft plan or amendment no later than 60 days after the department
20 receives it. If the department disapproves the revised plan or
21 revised plan amendment, the department shall provide the reason, in
22 writing, and (A) direct changes to the revised plan or plan amendment
23 or (B) require the producer responsibility organization to submit a
24 second revision no later than 60 days from the date of the rejection.

25 (ii) The department may approve the second revision submitted by
26 the producer responsibility organization with additional conditions
27 the producer responsibility organization must implement.

28 (c) Upon recommendation of the advisory council, or upon the
29 department's initiative, the department may require an amendment to
30 the plan if the department determines that an amendment is necessary
31 to ensure that the producer responsibility organization maintains
32 compliance with the requirements of this chapter.

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

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

36 (b) Review within 120 days of receipt of a complete annual
37 report;

38 (c) Determine whether an annual report meets the requirements of
39 this chapter, considering comments received under (a) of this
40 subsection, and notify the producer responsibility organization of

1 the approval or reasons for denial. The producer responsibility
2 organization must submit a revised annual report within 60 days after
3 receipt of the denial letter; and

4 (d) Notify a producer responsibility organization if the annual
5 report demonstrates that a plan fails to achieve the requirements
6 under this chapter.

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

11 NEW SECTION. **Sec. 107.** SERVICE PROVIDER REGISTRATION. (1) By
12 January 31, 2026, and annually thereafter, each service provider
13 seeking reimbursement for services provided under an approved plan
14 must register with the department by submitting the following
15 information:

16 (a) The contact information for a person representing the service
17 provider;

18 (b) The address of the service provider;

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

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

23 (e) If applicable to services provided, a report of the number of
24 covered entities currently provided service, the number of covered
25 entities eligible to receive service, and the total amount billed for
26 collection for covered entities, processing services, transfer
27 station operations provided, and tons managed during the preceding
28 calendar year, by covered entity type and by service area. When
29 possible, values must be separated for collection, transfer, and
30 processing.

31 (2)(a) Material recovery facilities receiving covered materials
32 collected from covered entities must register as service providers as
33 described in subsection (1) of this section and must additionally
34 report annually to the department by commodity type and covered
35 material type, in a form and format created by the department, on the
36 following:

37 (i) Tons received and processed, by jurisdiction and service
38 provider;

39 (ii) Inbound material quality and contamination;

- 1 (iii) Outbound material quality and contamination;
- 2 (iv) Outbound material tons, destinations, and final use by
3 commodity type, including each destination company and location. If
4 exported outside of the United States, the destination country must
5 be listed. Beginning in 2031, material recovery facilities must
6 submit certification for each destination to which commodities
7 containing covered materials were sent that the destination is a
8 responsible market;
- 9 (v) Methods of managing contaminants and residue to avoid
10 negative impacts on other waste streams or facilities;
- 11 (vi) Residuals, including residue rate, composition, and disposal
12 location;
- 13 (vii) Any violations of existing permits, regarding emissions to
14 air and water, and the status of those permit violations; and
- 15 (viii) Labor metrics including wages, unions, and workforce
16 demographics.
- 17 (b) All data reported by material recovery facilities under this
18 subsection must, at the request of the department, be audited by an
19 independent third party.
- 20 (c) The requirements of (a) and (b) of this subsection do not
21 apply to any facility operated by a scrap metal business as defined
22 in RCW 19.290.010 that holds a current scrap metal license unless the
23 covered materials were received directly from collection services for
24 which a producer responsibility organization has provided
25 reimbursement.

26 NEW SECTION. **Sec. 108.** SERVICE PROVIDER RESPONSIBILITIES. A
27 service provider receiving reimbursement or funding under an approved
28 plan must:

- 29 (1) Provide covered services for covered materials included on
30 the statewide collection lists, covered services for a refill system,
31 or covered services for reusable covered materials, as applicable to
32 the services offered by and service area of the service provider;
- 33 (2) Register annually with the department;
- 34 (3) Submit invoices to the producer responsibility organization
35 for reimbursement for services rendered;
- 36 (4) Meet performance standards established in an approved plan;
- 37 (5) Ensure that covered materials are sent to responsible
38 markets;

1 (6) Provide documentation to the producer responsibility
2 organization of the amounts, covered material types, and volumes of
3 covered materials by covered service method;

4 (7) Display the service provider's price, minus the reimbursement
5 from the producer responsibility organization, when invoicing
6 customers and, in delivering curbside collection services, pass on
7 the applicable portion of the reimbursement, through solid waste rate
8 reductions or credits, to all customers receiving curbside collection
9 services eligible for reimbursement; and

10 (8) Comply with all other applicable requirements of this
11 chapter.

12 NEW SECTION. **Sec. 109.** STATEWIDE COLLECTION LISTS. (1)(a) The
13 department must develop a list of covered materials determined to be
14 recyclable or compostable statewide. By October 1, 2026, the
15 department must develop an initial list for use and evaluation in the
16 needs assessment described in section 111 of this act. The department
17 must also publish lists no later than 30 days after approving a plan,
18 taking into account proposed changes in the plan. In the development
19 of the lists, the department must distinguish between:

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

22 (ii) Materials determined to be suitable for residential
23 composting collection;

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

25 (iv) Materials suitable for alternative collection.

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

29 (i) The stability, maturity, accessibility, and viability of
30 responsible markets;

31 (ii) Environmental health and safety considerations;

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

34 (iv) The material's compatibility with existing recycling
35 infrastructure;

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

38 (vi) The amount of the material available;

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

1 (viii) The potential to cause or be impacted by contamination;
2 (ix) The ability for waste generators to easily identify and
3 properly prepare the material;
4 (x) Economic factors;
5 (xi) Environmental factors from a life-cycle perspective;
6 (xii) The policy expressed in RCW 70A.205.010; or
7 (xiii) Other criteria or factors, as determined by the
8 department.

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

14 (3) In developing lists under this section, the department must
15 consult with the advisory council, producer responsibility
16 organizations, service providers, government entities, and other
17 interested parties. The department must consider any requests
18 received for the inclusion or removal of a covered material or
19 covered material type on a list under this section. The department
20 may select a third-party consultant to assist with the development of
21 the lists.

22 (4)(a) Except as described in (b) of this subsection and
23 subsection (5) of this section, a material that is not identified as
24 suitable for residential collection may not be collected as part of a
25 residential recycling program.

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

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

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

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

35 (5) For purposes of the first plan implementation period, a group
36 of producers representing a majority of a distinct covered material
37 type or distinct packaging type may petition the department, prior to
38 the department finalizing a list under this section, to consider
39 designating that material or packaging as suitable for multiple modes
40 of collection other than commingled residential, depending on

1 location. The department may grant a petition that is submitted at
2 least six months prior to the publication of the lists and that
3 justifies why different methods are appropriate in different
4 jurisdictions based on the factors specified in subsection (1)(b) of
5 this section.

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

12 (2) An alternative collection program for covered materials
13 included on the alternative collection list must be provided under a
14 plan. For purposes of the first plan implementation period, an
15 alternative collection program may be proposed by a producer
16 responsibility organization, a group of producers with a petition
17 granted by the department under section 109(5) of this act, or a
18 majority of producers of a unique product type whose packaging is
19 designated for alternative collection. A proposal under this
20 subsection must be submitted at the same time as the plan, and is
21 subject to the same approval process as the plan. An alternative
22 collection program must:

23 (a) Provide year-round, convenient, statewide collection
24 opportunities, including at least one drop-off collection site
25 located in each county;

26 (b) Provide tiers of service for collection, convenience, number
27 of drop-off collection sites, and additional collection systems based
28 on:

29 (i) County population size;

30 (ii) County population density; and

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

32 (c) Ensure materials are sent to responsible markets;

33 (d) Use education and outreach strategies that can be expected to
34 significantly increase consumer awareness of the program throughout
35 the state; and

36 (e) Accurately measure the amount of each covered material
37 collected and the applicable performance target and statewide
38 requirement.

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

1 (a) The number, type, and location of each collection
2 opportunity;

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

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

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

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

16 (6) Any group of producers, other than the producer
17 responsibility organization registered with the department, that
18 manages an approved alternative collection plan during the first plan
19 implementation period must:

20 (a) Be exclusively responsible for management of the distinct
21 material, packaging, or product type covered by that plan and may
22 thereby wholly or partially offset the producers' payment obligations
23 under this chapter with respect to the distinct material, packaging,
24 or product type only; and

25 (b) Comply with all requirements applicable to a producer
26 responsibility organization under this chapter, other than
27 requirements determined by the department not to be relevant to the
28 group of producers as a result of the producers' need to only manage
29 a distinct material, packaging, or product type rather than multiple
30 types of materials, packaging, or product types.

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

34 (b) By December 31, 2027, and every five years thereafter, the
35 department must complete a needs assessment consistent with
36 subsection (4) of this section. The department may adjust the
37 required content in a specific needs assessment to inform the next
38 plan.

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

1 (a) Initiate a consultation process to obtain recommendations
2 from the advisory council, government entities, service providers,
3 producer responsibility organizations, the utilities and
4 transportation commission, and other interested parties, regarding
5 the type and scope of information that should be collected and
6 analyzed in the needs assessments required by this section;

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

10 (c) At least 90 days prior to finalizing the needs assessment,
11 make the draft needs assessment available for comment by the advisory
12 council, producer responsibility organizations, the utilities and
13 transportation commission, jurisdictions planning under chapter
14 70A.205 RCW, and the public. The advisory council must have the
15 opportunity to review drafts of the needs assessment and accompanying
16 data used in the needs assessment. The department must respond in
17 writing to the comments and recommendations of the advisory council
18 and producer responsibility organizations; and

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

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

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

26 (a) Identification of currently or recently introduced covered
27 materials and covered material types;

28 (b) Tons of collected covered materials;

29 (c) An evaluation of what services related to the requirements of
30 this chapter are currently being delivered in each county and city
31 planning under chapter 70A.205 RCW and what the costs are for those
32 existing services, including:

33 (i) The availability and types of recycling services for covered
34 materials for residents in single-family and multifamily residences,
35 including whether current services are considered residential or
36 commercial and whether any gaps, costs, or needs are specific to
37 either commercial or residential customer service;

38 (ii) The current methods and infrastructure for servicing
39 residents, including curbside recycling service areas and material
40 drop-off locations;

1 (iii) Any densely populated areas within each jurisdiction in
2 which curbside recycling services for covered materials identified by
3 the department on the list developed and published under section 109
4 of this act are not available or are only partially available;

5 (iv) Any areas within each jurisdiction where curbside garbage
6 collection services are offered to residents in single-family and
7 multifamily residences but curbside recycling services are not
8 offered;

9 (d) Processing capacity at material recovery facilities,
10 including total tons processed and sold, composition of tons
11 processed and sold, current technologies utilized, and facility
12 processing fees charged to collectors delivering covered materials
13 for recycling;

14 (e) Capacity of, including total tons processed and sold,
15 technology used by, and characteristics of compost facilities to
16 process and recover compostable covered materials, and facility
17 processing fees charged to collectors delivering covered materials
18 for composting;

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

20 (g) Capacity and number of transfer stations and transfer
21 locations;

22 (h) Average term length of residential recycling and composting
23 collection contracts issued by government entities and an assessment
24 of contract cost structures;

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

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

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

31 (4) Each needs assessment after the preliminary needs assessment
32 must include at least the following:

33 (a) An evaluation of:

34 (i) Existing waste reduction, refill, reuse, recycling, and
35 composting, as applicable, for each covered material type, including
36 collection rates, recycling rates, composting rates, reuse rates, and
37 return rates, as applicable, for each covered material type;

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

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

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

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

14 (i) Plastic source reduction rates, including elimination
15 targets;

16 (ii) Reuse rates and return rates;

17 (iii) Recycling rates;

18 (iv) Composting rates; and

19 (v) Postconsumer recycled content, if applicable;

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

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

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

25 (iii) The statewide greenhouse gas emissions limits of chapter
26 70A.45 RCW;

27 (iv) The need for continuous progress toward overall reduction in
28 the generation of covered material waste, the reuse, recycling, or
29 composting of covered materials to reduce environmental impacts and
30 human health impacts, and progress to incorporate postconsumer
31 content to replace virgin materials and to support more regional
32 markets;

33 (v) A preference for statewide requirements that accomplish and
34 further the goals and requirements in (d)(ii), (iii), and (iv) of
35 this subsection as soon as practicable and to the maximum extent
36 achievable; and

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

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

4 (f) Recommended collection methods by covered materials type to
5 maximize collection efficiency, maximize feedstock quality, and
6 optimize service and convenience for collection of covered materials
7 to be considered or that are included on lists established in section
8 109 of this act, or for which a group of producers has been granted a
9 petition by the department under section 109(5) of this act;

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

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

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

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

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

20 (iii) Availability and cost of covered services for covered
21 materials to covered entities and any other location where covered
22 materials are introduced, including identification of disparities in
23 the availability of these services in overburdened communities
24 compared with other areas and to socially vulnerable populations as
25 compared to other populations and proposals for reducing or
26 eliminating those disparities;

27 (j) An evaluation of investments needed to increase waste
28 reduction, refill, reuse, recycling, and composting rates of covered
29 materials according to the range of proposed performance targets and
30 statewide requirements, including what new or expanded services and
31 infrastructure are needed in each county and city planning under
32 chapter 70A.205 RCW, and the estimated total costs of investments
33 needed, that would also:

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

37 (ii) Expand the availability and accessibility of recycling
38 collection services for covered materials to all places required
39 under this chapter and expand the availability and accessibility of
40 composting collection services where feasible; and

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

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

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

9 (m) An assessment of the level and causes of contamination of
10 source separated recyclable materials, source separated compostable
11 materials, and collected reusables, and the impacts of contamination
12 on service providers and on commodity values of covered material
13 types, including the cost to manage this contamination;

14 (n) An assessment of toxic substances intentionally added to or
15 residual from manufacturing in covered materials, whether this limits
16 one or more covered material types from being used as a marketable
17 feedstock, and best practices producers can implement to reduce
18 intentionally added or residual toxic substances in covered materials
19 that could be verified through suppliers' certificates of compliance,
20 testing, or other analytical and scientifically demonstrated
21 technology;

22 (o) An assessment and evaluation of current best practices and
23 efforts on:

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

27 (ii) Using product or packaging labels as a means of informing
28 consumers about environmentally sound use and management of covered
29 materials;

30 (iii) Increasing public awareness of how to use and manage
31 covered materials in an environmentally sound manner and how to
32 access waste reduction, refill, reuse, recycling, and composting
33 services; and

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

36 (p) Identification of the covered materials with the most
37 significant environmental impact, including assessing each covered
38 material's generation of hazardous waste, generation of greenhouse
39 gases, environmental justice impacts, public health impacts, and
40 other impacts;

1 (q) Recommendations for meeting the criteria for an alternative
2 collection program; and

3 (r) Other items identified by the department that would aid the
4 creation of the plan, the implementation of the plan, and the
5 enforcement of this chapter.

6 (5) The department or its contracted third party may conduct
7 voluntary interviews with service providers of curbside recycling or
8 composting services or recycling or composting processing services
9 within a jurisdiction on costs for additional infrastructure,
10 vehicles, staff, equipment, and other investments to achieve the
11 range of outcomes proposed under subsection (4)(c) and (d) of this
12 section.

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

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

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

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

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

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

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

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

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

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

13 (f) Strategies to increase participation in reuse, recycling, and
14 composting; and

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

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

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

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

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

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

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

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

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

15 (ii) Reusable covered materials managed through a reuse system;
16 and

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

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

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

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

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

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

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

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

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

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

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

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

10 (iii) Provide funding to expand and increase the convenience of
11 waste reduction, refill, reuse, collection, recycling, and composting
12 services to covered entities, at a minimum, according to the order of
13 the state's solid waste management hierarchy established in RCW
14 70A.205.005;

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

18 (v) Monitor to ensure that postconsumer materials are delivered
19 to responsible markets;

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

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

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

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

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

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

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

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

4 (ii) Requirements that service providers must offer residential
5 recycling collection for materials on the applicable list established
6 by the department under section 109(1)(a) of this act to covered
7 entities wherever they offer residential garbage collection services,
8 except in areas subject to a county ordinance as specified in RCW
9 70A.205.045(7)(b)(i)(C);

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

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

17 (v) Requirements that service providers comply with all
18 applicable federal, state, and local laws governing health and
19 safety;

20 (m) A requirement that owners or operators of a material recovery
21 facility that manages over 25,000 tons annually of covered materials
22 under this chapter comply with the compensation requirements
23 specified in section 304 of this act;

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

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

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

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

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

1 (p) A description of how the producer responsibility organization
2 will increase public awareness, educate, and complete outreach
3 activities that meet the requirements of section 119 of this act and
4 will evaluate the efficacy of these efforts;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (3) Proposed targets must demonstrate continuous improvement in
29 reducing environmental impacts and human health impacts of covered
30 materials over time.

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

37 (a) Levels and types of estimated contamination documented by the
38 facility;

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

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

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

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

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

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

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

27 (A) Environmental release of air and water pollutants or any
28 hazardous pollutants;

29 (B) Generation of hazardous waste;

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

31 (D) Environmental impacts on overburdened communities and
32 vulnerable populations;

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

35 (F) Public health impacts; and

36 (G) Capture and recycling rates;

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

39 (iv) Meets an unmet need in the state that will result in meeting
40 recycling performance targets, including creating new recycling

1 markets for materials currently disposed of in landfills or
2 incinerated;

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

4 (vi) Addresses those other environmental impacts as determined by
5 the department.

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

14 (ii) The department must publish a determination 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 (e) A person may appeal a decision by the department under (d) of
20 this subsection to the pollution control hearings board.

21 (f) 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 an
24 approved alternative recycling process is continuing to meet the
25 requirements of this section. If the facility fails to meet the
26 requirements of this section, the department shall prohibit the
27 producer responsibility organization from counting material sent to
28 the alternative recycling facility towards recycling performance
29 targets.

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

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

1 recyclability, compostability, or reusability. No more than eight
2 percent of a producer responsibility organization's plastic source
3 reduction performance target may be met by switching from virgin
4 covered material to postconsumer recycled content through a sliding
5 scale alternative compliance formula developed by the department
6 based on the ratio of virgin plastic to postconsumer recycled
7 plastic. For producers subject to the postconsumer recycled content
8 requirements of chapter 70A.245 RCW, the postconsumer recycled
9 content used to comply with those requirements may be credited
10 towards the plastic source reduction performance target, subject to
11 the eight percent limit.

12 (7) For purposes of determining whether reuse performance targets
13 are being met, a plan must provide a methodology for measuring the
14 amount of reusable covered materials at the point at which reusable
15 covered materials meet the following criteria as demonstrated by the
16 producer and approved by the department whether the:

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

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

24 (8) For purposes of determining whether postconsumer recycled
25 content performance targets are being met under this chapter, a plan
26 must provide a methodology for measuring postconsumer recycled
27 content across all producers for a covered materials type where
28 producers may determine their postconsumer recycled content based on
29 their United States market territory if state-specific postconsumer
30 recycled content is impractical to determine.

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

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

37 (i) Recycling rate;

38 (ii) Composting rate;

39 (iii) Reuse rate;

40 (iv) Return rate;

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

3 (vi) The percentage of postconsumer recycled content that covered
4 materials must contain, including an overall percentage for all
5 covered materials, as applicable, excluding compostable materials
6 that cannot include postconsumer recycled content due to unique
7 chemical or physical properties or health or safety requirements that
8 prohibit introduction of postconsumer recycled content.

9 (b) The department may use the following information and criteria
10 when establishing statewide requirements under (a) of this
11 subsection:

12 (i) The needs assessment;

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

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

15 (iv) The need for continuous progress towards overall reduction
16 in the generation of covered materials waste, the reuse, recycling,
17 or composting of covered materials to reduce environmental impacts
18 and human health impacts, and progress to incorporate postconsumer
19 recycled content to replace virgin materials and support more
20 regional markets;

21 (v) A preference for statewide requirements that accomplish and
22 further the goals and requirements in (b)(ii) through (iv) of this
23 subsection as soon as practicable and to the maximum extent
24 achievable; and

25 (vi) Information from packaging and paper product producer
26 responsibility programs operating in other jurisdictions.

27 (c) The department must consult with producer responsibility
28 organizations on establishing statewide requirements, submit proposed
29 statewide requirements for review by the advisory council, and
30 consider the advisory council's recommendations before finalizing the
31 statewide requirements.

32 (d) Every five years, the department must review the statewide
33 requirements established under this subsection. If the department
34 decides an update is not warranted at that time, the department must
35 submit the reasoning to the advisory council and consider the
36 advisory council's recommendations before making a final decision. If
37 the department decides an update is warranted, the department must
38 follow the process specified in (b) and (c) of this subsection.

39 (e) Producer responsibility organizations must ensure the
40 statewide requirements are met.

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

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

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

14 (b) Reflect program costs for each covered materials type, net of
15 commodity value for that covered materials type when used as a
16 recycled material, as well as allocated fixed costs that do not vary
17 based on covered materials type. Any membership fees charged for
18 different covered material types, materials, and formats must:

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

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

25 (c) Incentivize using materials and design attributes that reduce
26 the environmental impacts and human health impacts of covered
27 materials by:

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

30 (ii) Reducing the amount of:

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

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

35 (iii) Increasing the amount of covered materials managed in a
36 reuse system;

37 (iv) Increasing the proportion of postconsumer material in
38 covered materials;

39 (v) Enhancing the recyclability or compostability of a covered
40 material;

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

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

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

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

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

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

13 (ii) The financial obligations to complete activities described
14 in an approved plan and to reimburse service providers under section
15 117 of this act;

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

18 (iv) The operating costs of the producer responsibility
19 organization; and

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

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

27 (4) Fees collected from producers under this act may not be used
28 for lobbying or political advocacy activities that would require
29 reporting under chapter 42.17A RCW or under the federal election
30 campaign act, 2 U.S.C. chapter 14.

31 NEW SECTION. **Sec. 117.** SERVICE PROVIDER REIMBURSEMENT. (1) The
32 reimbursements provided for covered services to covered entities
33 under an approved plan must only be provided to service providers
34 that, at a minimum, meet the performance standards established under
35 an approved plan.

36 (2)(a) A plan must provide a methodology for reimbursement rates
37 for covered services for covered materials, exclusive of exempt
38 materials. The methodology for reimbursement rates must consider
39 estimated revenue received by service providers from the sale of

1 covered materials based on relevant material indices and incorporate
2 relevant cost information identified by the needs assessment.
3 Reimbursement rates must be annually updated and reflect the net
4 costs for covered services for covered materials from entities
5 receiving services under this chapter, at a minimum. Reimbursement
6 rates must be established equivalent to net costs, using a
7 methodology in an approved plan as follows:

8 (i) No less than 50 percent of the net costs by February 15,
9 2030;

10 (ii) No less than 75 percent of the net costs by February 15,
11 2031; and

12 (iii) No less than 90 percent of the net costs by February 15,
13 2032, and each year thereafter.

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

16 (i) The cost to collect covered material for recycling, a
17 proportional share of composting, or reuse adjusted to reflect
18 conditions that affect those costs, varied by region or jurisdiction
19 in which the covered services are provided including, but not limited
20 to:

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

22 (B) Population density;

23 (C) Collection methods employed;

24 (D) Distance traveled by collection vehicles to consolidation or
25 transfer facilities, to reuse, recycling, or composting facilities,
26 and to responsible markets;

27 (E) Other factors that may contribute to regional or
28 jurisdictional cost differences;

29 (F) The proportion of covered compostable materials within all
30 source separated compostable materials collected or managed through
31 composting; and

32 (G) The general quality of covered materials collected by service
33 providers;

34 (ii) The cost to transfer collected covered materials from
35 consolidation or transfer facilities to reuse, processing, recycling,
36 or composting facilities or to responsible markets;

37 (iii) The cost to:

38 (A) Sort and process covered materials for sale or use and remove
39 contamination from covered materials by a recycling or composting

1 facility, minus the average fair market value for that covered
2 material based on market indices for the region; and

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

4 (iv) The administrative costs of service providers, including
5 education, public awareness campaigns, and outreach program costs as
6 applicable; and

7 (v) The costs of covered services for a refill system or covered
8 services provided for reusable covered materials and management of
9 contamination.

10 (c) A service provider retains all revenue from the sale of
11 covered materials unless otherwise agreed upon by the service
12 provider. Nothing in this chapter may restrict a service provider
13 from charging a fee for covered services of covered materials to the
14 extent that reimbursement from a producer responsibility organization
15 does not cover all costs of services, including continued investment
16 and innovation in operations, operating profits, and returns on
17 investments required by a service provider to provide sustainability
18 of the services.

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

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

26 (b) Nothing in this chapter restricts the authority of a
27 political subdivision of the state to provide waste management
28 services to residents, to contract with any entity to provide waste
29 management services, or to exercise its authority granted under RCW
30 35.21.120, 35.21.130, 35.21.152, or 36.58.040. A producer
31 responsibility organization may not restrict or otherwise interfere
32 with a government entity exercising its authority under RCW
33 35.21.120, 35.21.130, 35.21.152, or 36.58.040 to organize collection
34 of solid waste, including materials collected for recycling or
35 composting, or to extend, renew, or otherwise manage any contracts
36 entered into as a result of exercising such authority or otherwise
37 resulting from a competitive procurement process.

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

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

8 (2) A producer or producer responsibility organization may not
9 own or partially own infrastructure that is used to fulfill
10 obligations under this chapter, except in the following
11 circumstances:

12 (a) A producer may hold an ownership stake in infrastructure used
13 to fulfill obligations under this chapter as long as the stake was
14 held before the effective date of this section and the ownership
15 state is fully disclosed by the producer to the producer
16 responsibility organization;

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

21 (c) A producer or producer responsibility organization may own or
22 partially own infrastructure that is used solely for purposes of the
23 reuse financial assistance program or as needed to fulfill an
24 individual plan or alternative collection program.

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

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

34 (a) Information regarding a process that members of the public
35 may use to contact the producer responsibility organization with
36 questions;

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

- 1 (c) Registration materials submitted to the department;
- 2 (d) The draft and approved plan and any draft and approved
3 amendments;
- 4 (e) The list of exempt materials under this chapter;
- 5 (f) Current and all past needs assessments;
- 6 (g) Annual reports submitted to the department by the producer
7 responsibility organization;
- 8 (h) A link to administrative rules implementing this chapter;
- 9 (i) Comments of the advisory council on the documents listed in
10 (d) and (f) of this subsection and the responses of the producer
11 responsibility organization to those comments;
- 12 (j) The names of producers and brands that are not in compliance
13 with the requirements of this chapter;
- 14 (k) A list, updated at least monthly, of all member producers
15 that will operate under the plan administered by the producer
16 responsibility organization and, for each producer, a list of all
17 brands of the producer's covered materials; and
- 18 (l) Education materials on waste reduction, refill, reuse,
19 recycling, and composting for producers and the general public.
- 20 (2) A producer responsibility organization must implement
21 education and outreach activities that effectively reach diverse
22 residents and include culturally responsive materials and methods,
23 are accessible, clear, and support the achievement of the performance
24 targets, including by developing and providing educational materials,
25 resources, and campaigns that encourage and support recycling,
26 composting, and reuse behaviors by residents and visitors. Activities
27 must:
- 28 (a) Assist producers in improving product labels as a means of
29 informing consumers about refill, reuse, recycling, composting, and
30 other environmentally sound methods of managing covered materials;
- 31 (b) Increase public awareness of how to use and manage covered
32 materials in an environmentally sound manner and how to access waste
33 reduction, refill, reuse, recycling, and composting services;
- 34 (c) Encourage behavior change to increase participation in waste
35 reduction, refill, reuse, recycling, and composting programs
36 including by engaging local communities in the design and
37 implementation of programs and developing community-led solutions
38 that are tailored to their specific cultural practices and waste
39 generation patterns;

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

4 (e) Develop and provide education and outreach materials that are
5 able to be used by retail establishments, collectors, government
6 entities, service providers, schools, institutions, youth
7 organizations, and nonprofit organizations. Outreach materials must
8 be accessible in multiple languages and culturally appropriate
9 formats to reach non-English-speaking communities.

10 (3) A producer responsibility organization must coordinate with
11 registered service providers and any government entities that choose
12 to participate in carrying out education and outreach consistent with
13 the plan.

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

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

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

24 (i) The amount of covered materials successfully source reduced,
25 reused, recycled, and composted by covered materials type and the
26 strategies or collection methods used; and

27 (ii) Information about third-party certifications obtained;

28 (c) The total cost to implement the program and a detailed
29 description of program expenditures by category, including:

30 (i) The total amount of producer fees collected;

31 (ii) A description of infrastructure investments made; and

32 (iii) A breakdown of reimbursements by covered services, entities
33 receiving covered services, and regions of the state;

34 (d) A copy of a financial audit of program operations conducted
35 by an independent auditor approved by the department that meets the
36 requirements of the *Financial Accounting Standards Board's Accounting*
37 *Standards* update 2016-14, not-for-profit entities (Topic 958), as it
38 existed as of January 1, 2025;

1 (e) A description of the program performance problems that
2 emerged in specific locations and efforts taken or proposed by the
3 producer responsibility organization to address them;

4 (f) A discussion of technical assistance provided to producers
5 regarding toxic substances in covered materials and actions taken by
6 producers to reduce intentionally added toxic substances and residual
7 toxic substances from manufacturing in covered materials beyond
8 compliance with prohibitions already established in law;

9 (g) A description of public awareness, education, and outreach
10 activities undertaken, including any evaluations conducted of their
11 efficacy, plans for next calendar year's activities, and an
12 evaluation of the process established by the producer responsibility
13 organization to answer questions from consumers regarding collection,
14 recycling, composting, waste reduction, and reuse activities;

15 (h) A description, which includes quantitative measurements, of
16 changes in levels of access to covered services for covered materials
17 by socially vulnerable populations relative to levels of access to
18 and participation in covered services for covered materials by
19 socially vulnerable populations prior to the implementation of the
20 first plan under this chapter;

21 (i) A summary of consultations held with the advisory council and
22 how any feedback was incorporated into the report as a result,
23 together with a list of rejected recommendations and the reasons for
24 rejection;

25 (j) A list of producers found to be out of compliance with this
26 chapter and actions taken by the producer responsibility organization
27 to return producers to compliance, and notification of any producers
28 that are no longer participating in the producer responsibility
29 organization or who have been expelled due to their lack of
30 compliance;

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

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

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

1 (2) A producer responsibility organization that fails to meet a
2 performance target approved in a plan must, within 90 days of filing
3 an annual report under this section, file with the department an
4 explanation of the factors contributing to the failure and propose an
5 amendment to the plan specifying changes in operations, including
6 education and outreach, that the producer responsibility organization
7 will make that are designed to achieve the performance targets. If a
8 performance target is unmet due to the lack of government entity
9 participation in the program, the department may revise the statewide
10 requirements. If a revision to the statewide requirements is
11 completed by the department, the producer responsibility organization
12 may revise the performance targets at the same time. An amendment
13 filed under this subsection must be reviewed by the advisory council
14 and approved by the department in the manner specified in section 106
15 of this act.

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

- 22 (a) Solid waste, composting, or recycling costs;
23 (b) Recycling rates and composting rates; and
24 (c) The availability and convenience of recycling, composting,
25 and reuse services, including specific analysis of the availability
26 and convenience of recycling, composting, and reuse services used by
27 socially vulnerable populations.

28 (2)(a) The independent consultant, for purposes of the
29 independent review of the program carried out under this section, may
30 review:

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

33 (ii) Producer or producer responsibility organization data or
34 information pertinent to the program.

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

38 (3) To the extent that sufficient state-level data is not
39 available to complete the analyses required in subsection (1) of this

1 section, the independent consultant may review data or studies from
2 states with similar programs.

3 NEW SECTION. **Sec. 122.** CONFIDENTIAL INFORMATION SUBMISSION. A
4 producer responsibility organization, service provider, material
5 recovery facility, organic material management facility, responsible
6 market, or other entity that submits information or records to the
7 department under this chapter may request that the information or
8 records, including data related to business profits, service rates,
9 fees, or business expenses or private data on individuals, be made
10 available only for the confidential use of the department, the
11 director of the department, the appropriate division of the
12 department, or the independent consultant carrying out the
13 independent review of the program in section 121 of this act. The
14 director of the department must consider the request and if this
15 action is not detrimental to the public interest and is otherwise in
16 accordance with the policies and purposes of chapter 43.21A RCW, the
17 director must grant the request for the information to remain
18 confidential as authorized in RCW 43.21A.160.

19 NEW SECTION. **Sec. 123.** ENFORCEMENT AUTHORITY. (1) (a) The
20 department may administratively impose a civil penalty of up to
21 \$1,000 per violation per day on any producer who violates this
22 chapter and up to \$10,000 per violation per day for the second and
23 each subsequent violation.

24 (b) For a producer out of compliance with the requirements of
25 this chapter, the department shall provide written notification and
26 offer information. For the purposes of this section, written
27 notification serves as notice of the violation. The department must
28 issue at least one notice of violation by certified mail prior to
29 assessing a penalty and the department may only impose a penalty on a
30 producer that has not met the requirements of this chapter 60 days
31 following the date the written notification of the violation was
32 sent.

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

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

4 (i) Issue a corrective action order to a producer responsibility
5 organization;

6 (ii) Issue an order to a producer responsibility organization to
7 provide for the continued implementation of the program in the
8 absence of an approved plan;

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

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

13 (v) Require additional reporting related to the area of
14 noncompliance.

15 (c) Prior to taking an action described in this subsection, the
16 department must provide the producer responsibility organization an
17 opportunity to respond to or rebut the written finding upon which the
18 action is predicated.

19 (3) A person may not sell or distribute in or into the state a
20 covered material of a producer that is not participating in a
21 producer responsibility organization or that is not in compliance
22 with the requirements of this chapter or rules adopted under this
23 chapter.

24 (a) The department shall serve, or send with delivery
25 confirmation, a written warning explaining the violation to a person
26 distributing or selling covered materials of a producer that is not
27 in compliance with this chapter.

28 (b) The department may assess a penalty on a person that
29 continues to sell or distribute covered materials of a producer that
30 is in violation of this chapter 60 days after receipt of the written
31 warning under this subsection. The amount of the penalty that the
32 department may assess under this subsection is twice the value of the
33 covered materials sold in violation of this chapter or \$500,
34 whichever is greater. The department must waive the penalty upon
35 verification that the person has discontinued distribution or sales
36 of the covered material within 30 days of the date the penalty is
37 assessed.

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

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

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

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

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

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

13 (c) Education and outreach are integrated between the two
14 programs; and

15 (d) Waste reduction and reuse strategies are prioritized between
16 the two programs.

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

23 NEW SECTION. **Sec. 125.** PETITION FOR THE EXCLUSION OF CERTAIN
24 PRODUCTS. (1) Except as provided in subsection (4) of this section,
25 one year prior to the submission of a plan, a producer, group of
26 producers, or a producer responsibility organization may submit a
27 petition to the department to request for reasons of public health or
28 safety the temporary exclusion of packaging used to contain the
29 following categories of products, subcategories of the following
30 categories of products, or individual products:

31 (a) Products regulated under the poison prevention packaging act
32 of 1970; and

33 (b) Products subject to requirements under federal laws that make
34 their inclusion in the requirements of this chapter infeasible or
35 inadvisable.

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

1 (a) The technical feasibility of including the category of
2 product, subcategory of product, or individual product in the program
3 created by this chapter, and in recycling the packaging of the
4 product or products;

5 (b) An analysis of any potential risks to public health and
6 safety associated with the inclusion of a category of product,
7 subcategory of product, or individual product in the program created
8 by this chapter, and in recycling the packaging of the product or
9 products; and

10 (c) The progress made by producers in achieving the goals of this
11 chapter, including by reducing the amount of packaging used with the
12 products, increasing the recycled content of the product packaging,
13 and increasing the ability of the products' packaging to be reused,
14 composted, or recycled if appropriate.

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

17 (4) The producer of a product that is temporarily excluded from
18 the requirements of this chapter under this section must report,
19 directly to the department in a form created by the department, the
20 information related to the temporarily excluded product that is
21 required to be reported to the department by producer responsibility
22 organizations under sections 103 and 120 of this act.

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

28 (2) Nothing in this chapter authorizes the department or a
29 producer responsibility organization to impose any requirement, in
30 direct conflict with a federal law or regulation including, but not
31 limited to:

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

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

36 (c) Regulations, rules, or guidelines issued by the United States
37 department of agriculture or the United States food and drug
38 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 (3) No penalty may be assessed under this chapter on an
17 individual or resident for the improper disposal of covered materials
18 in a noncommercial or residential setting.

19 (4) Nothing in this chapter limits the authority of the utilities
20 and transportation commission to regulate collection of solid waste,
21 including curbside collection of residential recyclable materials, in
22 accordance with chapter 81.77 RCW.

23 (5) Nothing in this chapter affects the authority or duties of
24 the department of agriculture related to pest and noxious weed
25 control and quarantine measures under chapter 17.24 RCW.

26 NEW SECTION. **Sec. 127.** ACCOUNT. The responsible recycling
27 management account is created in the custody of the state treasurer.
28 All receipts received by the department under this chapter must be
29 deposited in the account. Only the director of the department or the
30 director's designee may authorize expenditures from the account. The
31 account is subject to the allotment procedures under chapter 43.88
32 RCW, but an appropriation is not required for expenditures.
33 Expenditures from the account may be used by the department only for
34 implementing, administering, and enforcing the requirements of this
35 chapter, and by the department of labor and industries necessary to
36 cover the cost for the implementation and enforcement of section 304
37 of this act and RCW 49.48.082. It is the intent of the legislature
38 that the portion of the producer responsibility organization fee
39 received in 2026 for the costs of the department be transferred to

1 whichever state account was used to cover the costs of the department
2 prior to the payment of the producer responsibility organization fee
3 in 2026.

4 **Part Two**

5 **Amendments to Existing Solid Waste Management Laws**

6 **Sec. 201.** RCW 70A.205.045 and 2020 c 20 s 1163 are each amended
7 to read as follows:

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

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

13 (2) The estimated long-range needs for solid waste handling
14 facilities projected (~~(twenty)~~) 20 years into the future.

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

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

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

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

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

29 (4) A program for surveillance and control.

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

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

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

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

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

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

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

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

19 (b) Source separation strategies, including:

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

22 (A) Until January 1, 2030, these programs shall include
23 collection of source separated recyclable materials from single and
24 multiple-family residences, in urban areas, unless the department
25 approves an alternative program, according to the criteria in the
26 planning guidelines. Such criteria shall include: Anticipated
27 recovery rates and levels of public participation, availability of
28 environmentally sound disposal capacity, access to markets for
29 recyclable materials, unreasonable cost impacts on the ratepayer over
30 the six-year planning period, utilization of environmentally sound
31 waste reduction and recycling technologies, and other factors as
32 appropriate. In rural areas, these programs shall include but not be
33 limited to drop-off boxes, buy-back centers, or a combination of
34 both, at each solid waste transfer, processing, or disposal site, or
35 at locations convenient to the residents of the county. The drop-off
36 boxes and buy-back centers may be owned or operated by public,
37 nonprofit, or private persons;

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

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

4 (II) Include materials on the statewide collection list
5 designated for residential collection established by the department;
6 and

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

11 (C) A county may, by ordinance, direct that the full list of
12 materials on the statewide collection list identified as suitable for
13 residential collection be collected exclusively through drop-off
14 locations in areas regulated by the utilities and transportation
15 commission under the provisions of chapter 81.77 RCW if the areas
16 were designated as rural in the county solid waste management plan
17 and no curbside recycling collection service was offered within those
18 areas as of January 1, 2025. Where a county has adopted such an
19 ordinance, the provisions of (b)(i)(B) of this subsection do not
20 apply;

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

26 (E) Before January 1, 2030, each comprehensive solid waste
27 management plan must be amended, revised, or updated by a
28 jurisdiction consistent with the requirements of this subsection
29 (7)(b)(i). If a comprehensive solid waste management plan has not
30 been amended, revised, or updated before January 1, 2030, to be
31 consistent with the requirements of this subsection (7)(b)(i),
32 beginning January 1, 2030, the model comprehensive solid waste plan
33 amendment provided by the department under section 106 of this act
34 applies in the jurisdiction;

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

38 (iii) Programs to collect yard waste and food waste, if the
39 county or city submitting the plan finds that there are adequate
40 markets or capacity for composted yard waste and food waste within or

1 near the service area to consume the majority of the material
2 collected; and

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

5 (c) Recycling strategies for materials not covered under chapter
6 70A.--- RCW (the new chapter created in section 401 of this act),
7 including a description of markets for recyclables, a review of waste
8 generation trends, a description of waste composition, a discussion
9 and description of existing programs and any additional programs
10 needed to assist public and private sector recycling, and an
11 implementation schedule for the designation of specific materials to
12 be collected for recycling, and for the provision of recycling
13 collection services;

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

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

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

24 (10) A contamination reduction and outreach plan. The
25 contamination reduction and outreach plan must address reducing
26 contamination in recycling. Except for counties with a population of
27 (~~twenty-five thousand~~) 25,000 or fewer, by July 1, 2021, a
28 contamination reduction and outreach plan must be included in each
29 solid waste management plan by a plan amendment or included when
30 revising or updating a solid waste management plan developed under
31 this chapter. Jurisdictions may adopt the state's contamination
32 reduction and outreach plan as developed under RCW 70A.205.070 or
33 participate in a producer responsibility organization's plan under
34 chapter 70A.--- RCW (the new chapter created in section 401 of this
35 act) in lieu of creating their own plan. A recycling contamination
36 reduction and outreach plan must include the following:

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

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

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

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

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

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

15 (~~The department of ecology, at~~) At the request of a local
16 government jurisdiction, the department or a producer responsibility
17 organization implementing a plan under chapter 70A.--- RCW (the new
18 chapter created in section 401 of this act) may periodically provide
19 educational material promoting household waste reduction and
20 recycling to public and private refuse haulers. The educational
21 material shall be distributed to households receiving refuse
22 collection service by local governments or the refuse hauler
23 providing service. The refuse hauler may distribute the educational
24 material by any means that assures timely delivery.

25 Reasonable expenses incurred in the distribution of this material
26 shall be considered, for rate-making purposes, as legitimate
27 operating expenses of garbage and refuse haulers regulated under
28 chapter 81.77 RCW.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (b) All known and measurable costs related to implementation of
2 the approved county or city comprehensive solid waste management
3 plan; and

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

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

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

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

22 (1) The commission shall allow solid waste collection companies
23 collecting recyclable materials other than covered materials
24 collected under an approved plan in chapter 70A.--- RCW (the new
25 chapter created in section 401 of this act) to retain up to (~~(fifty)~~)
26 50 percent of the revenue paid to the companies for the material if
27 the companies submit a plan to the commission that is certified by
28 the appropriate local government authority as being consistent with
29 the local government solid waste plan and that demonstrates how the
30 revenues will be used to increase recycling. The remaining revenue
31 shall be passed to residential customers.

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

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

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

37 **Part Three**

38 **Other Conforming Amendments and Miscellaneous Provisions**

1 **Sec. 301.** RCW 43.21B.110 and 2024 c 347 s 5, 2024 c 340 s 4, and
2 2024 c 339 s 16 are each reenacted and amended to read as follows:

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

10 (a) Civil penalties imposed pursuant to chapter 70A.230 RCW and
11 RCW 18.104.155, 70A.15.3160, 70A.300.090, 70A.20.050, 70A.230.020,
12 70A.205.280, 70A.355.070, 70A.430.070, 70A.500.260, 70A.505.100,
13 70A.505.110, 70A.530.040, 70A.350.070, 70A.515.060, 70A.245.040,
14 70A.245.050, 70A.245.070, 70A.245.080, 70A.245.130, 70A.245.140,
15 70A.65.200, 70A.455.090, 70A.550.030, 70A.555.110, 70A.560.020,
16 section 123 of this act, 70A.565.030, 76.09.170, 77.55.440,
17 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310,
18 90.56.330, and 90.64.102.

19 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
20 18.104.130, 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.15.4530,
21 70A.15.6010, 70A.205.280, 70A.214.140, 70A.300.120, 70A.350.070,
22 70A.245.020, 70A.65.200, 70A.505.100, 70A.555.110, 70A.560.020,
23 section 123 of this act, 70A.565.030, 86.16.020, 88.46.070,
24 90.03.665, 90.14.130, 90.46.250, 90.48.120, 90.48.240, 90.56.330, and
25 90.64.040.

26 (c) Except as provided in RCW 90.03.210(2), the issuance,
27 modification, or termination of any permit, certificate, or license
28 by the department or any air authority in the exercise of its
29 jurisdiction, including the issuance or termination of a waste
30 disposal permit, the denial of an application for a waste disposal
31 permit, the modification of the conditions or the terms of a waste
32 disposal permit, a decision to approve or deny a solid waste
33 management plan under RCW 70A.205.055, approval or denial of an
34 application for a beneficial use determination under RCW 70A.205.260,
35 an application for a change under RCW 90.03.383, or a permit to
36 distribute reclaimed water under RCW 90.46.220.

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

1 (e) Decisions of local health departments regarding the issuance
2 and enforcement of permits to use or dispose of biosolids under RCW
3 70A.226.090.

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

6 (g) Decisions of local conservation districts related to the
7 denial of approval or denial of certification of a dairy nutrient
8 management plan; conditions contained in a plan; application of any
9 dairy nutrient management practices, standards, methods, and
10 technologies to a particular dairy farm; and failure to adhere to the
11 plan review and approval timelines in RCW 90.64.026 as provided in
12 RCW 90.64.028.

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

16 (i) Decisions of the department of natural resources, the
17 department of fish and wildlife, and the department that are
18 reviewable under chapter 76.09 RCW, and the department of natural
19 resources' appeals of county, city, or town objections under RCW
20 76.09.050(7).

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

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

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

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

34 (n) Decisions of the department of ecology that are appealable
35 under RCW 70A.245.020 to set recycled minimum postconsumer content
36 for ((covered)) products or to temporarily exclude types of
37 ((covered)) products in plastic containers from minimum postconsumer
38 recycled content requirements.

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

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

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

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

11 (b) Hearings conducted by the department pursuant to RCW
12 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,
13 70A.15.3110, and 90.44.180.

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

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

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

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

23 (1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160,
24 70A.205.280, 70A.230.080, 70A.300.090, 70A.20.050, 70A.245.040,
25 70A.245.050, 70A.245.070, 70A.245.080, 70A.245.130, 70A.245.140,
26 70A.65.200, 70A.430.070, 70A.455.090, 70A.500.260, 70A.505.110,
27 70A.555.110, 70A.560.020, section 123 of this act, 70A.565.030,
28 86.16.081, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310,
29 90.56.330, and 90.64.102 and chapter 70A.355 RCW shall be imposed by
30 a notice in writing, either by certified mail with return receipt
31 requested or by personal service, to the person incurring the penalty
32 from the department or the local air authority, describing the
33 violation with reasonable particularity. For penalties issued by
34 local air authorities, within 30 days after the notice is received,
35 the person incurring the penalty may apply in writing to the
36 authority for the remission or mitigation of the penalty. Upon
37 receipt of the application, the authority may remit or mitigate the
38 penalty upon whatever terms the authority in its discretion deems
39 proper. The authority may ascertain the facts regarding all such

1 applications in such reasonable manner and under such rules as it may
2 deem proper and shall remit or mitigate the penalty only upon a
3 demonstration of extraordinary circumstances such as the presence of
4 information or factors not considered in setting the original
5 penalty.

6 (2) Any penalty imposed under this section may be appealed to the
7 pollution control hearings board in accordance with this chapter if
8 the appeal is filed with the hearings board and served on the
9 department or authority 30 days after the date of receipt by the
10 person penalized of the notice imposing the penalty or 30 days after
11 the date of receipt of the notice of disposition by a local air
12 authority of the application for relief from penalty.

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

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

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

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

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

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

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

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

38 (c) Penalties imposed pursuant to RCW 70A.230.080, 70A.300.090,
39 70A.430.070, 70A.555.110, ~~((and))~~ 70A.560.020, and 70A.565.030 must

1 be credited to the model toxics control operating account created in
2 RCW 70A.305.180;

3 (d) Penalties imposed pursuant to RCW 70A.245.040 and 70A.245.050
4 must be credited to the recycling enhancement account created in RCW
5 70A.245.100;

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

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

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

13 (h) Penalties imposed pursuant to RCW 70A.355.070 must be
14 credited to the underground storage tank account created in RCW
15 70A.355.090; and

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

19 NEW SECTION. Sec. 303. LITTER TAX STUDY. (1) In consultation
20 with producer responsibility organizations registered with the
21 department of ecology under chapter 70A.--- RCW (the new chapter
22 created in section 401 of this act), the department of ecology and,
23 for the purposes of (c) of this subsection, the department of revenue
24 must study:

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

28 (b) The extent to which covered materials contribute to litter
29 and marine debris for the purpose of informing how a producer
30 responsibility organization implementing a plan can support litter
31 and marine debris prevention as it relates to activities required
32 under chapter 70A.--- RCW (the new chapter created in section 401 of
33 this act). The assessment should draw on available data, assess gaps,
34 and identify strategies for improving prevention and cleanup of
35 litter and marine debris from covered materials; and

36 (c) Possible improvements to the structure of the litter tax
37 under chapter 82.19 RCW including administration, compliance, and
38 distribution of the tax and application of the tax to certain
39 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 materials under chapter 70A.--- RCW (the new chapter created in
5 section 401 of this act) that are subject to the litter tax.

6 (2) By January 1, 2030, 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 materials, based
10 on whether the purpose of the litter tax under chapter 82.19 RCW is
11 being achieved for those materials by the requirements of producers
12 under chapter 70A.--- RCW (the new chapter created in section 401 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, 2030.

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

19 (1) Employers associated with a material recovery facility that
20 annually manages 25,000 tons or more of covered materials under
21 chapter 70A.--- RCW (the new chapter created in section 401 of this
22 act) must ensure that workers at the facility receive minimum
23 industry standard compensation, beginning October 1, 2028.

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

28 (3) (a) If more than one collective bargaining agreement exists
29 that covers similar or equivalent work in the same county, the higher
30 rate applies.

31 (b) If no collective bargaining agreement exists that covers
32 similar or equivalent work in the same county, the rate in the county
33 with a collective bargaining agreement that is closest geographically
34 applies.

35 (4) The minimum industry standard compensation requirements of
36 this section constitute a wage payment requirement as defined in RCW
37 49.48.082. The department of labor and industries may otherwise
38 enforce this provision as a wage under RCW 49.48.040 through
39 49.48.080 and the applicable provisions of chapter 49.52 RCW.

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

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

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

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

30 (e) Upon receiving a complaint, the department of labor and
31 industries may request or subpoena the records of the material
32 recovery facility.

33 (f) In addition to any enforcement authority provided in this
34 section or applicable rules, the department of labor and industries
35 may enforce any violation under this section or applicable rules by
36 filing an action in the superior court for the county in which the
37 violation is alleged to have occurred. If the department of labor and
38 industries prevails, the department is entitled to reasonable
39 attorneys' fees and costs, in the amount to be determined by the
40 court.

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

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

5 (a) "Minimum industry standard compensation" means a wage and
6 usual benefits package equal to or greater than the combined hourly
7 wage and usual benefits package set by a collective bargaining
8 agreement that covers similar or equivalent work in a county.

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

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

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

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

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

34 (A) Employer payments for the usual benefit are made only in
35 conformance with all applicable federal and state laws, including the
36 requirements of the employment retirement income security act of
37 1974, as amended, and of the internal revenue service; and

38 (B) Employee payments toward the usual benefit, through self-
39 contribution, payroll deduction, or otherwise, do not constitute a

1 credit to the employer for minimum industry standard compensation
2 purposes.

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

5 The definitions in this section apply throughout this section and
6 RCW 49.48.083 through 49.48.086:

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

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

10 (3) "Determination of compliance" means a written determination
11 by the department that wage payment requirements have not been
12 violated.

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

15 (5) "Employee" has the meaning provided in: (a) RCW 49.46.010 for
16 purposes of a wage payment requirement set forth in RCW 49.46.020 or
17 49.46.130; and (b) RCW 49.12.005 for purposes of a wage payment
18 requirement set forth in RCW 49.48.010, 49.52.050, or 49.52.060.

19 (6) "Employer" has the meaning provided in RCW 49.46.010 for
20 purposes of a wage payment requirement set forth in RCW 49.46.020,
21 49.46.130, 49.48.010, 49.52.050, or 49.52.060.

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

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

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

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

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

1 (12) "Wage payment requirement" means a wage payment requirement
2 set forth in RCW 49.46.020, 49.46.130, 49.48.010, 49.52.050, (~~(~~or~~)~~)
3 49.52.060, or section 304 of this act, and any related rules adopted
4 by the department.

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

9 **Sec. 306.** RCW 70A.245.100 and 2021 c 313 s 13 are each amended
10 to read as follows:

11 The recycling enhancement account is created in the custody of
12 the state treasurer. All penalties collected by the department
13 pursuant to RCW 70A.245.040 (~~(and)~~), 70A.245.050, and section 123 of
14 this act must be deposited in the account. Only the director of the
15 department or the director's designee may authorize expenditures from
16 the account. The account is subject to the allotment procedures under
17 chapter 43.88 RCW, but an appropriation is not required for
18 expenditures. Expenditures from the account may be used by the
19 department only for providing grants to local governments for the
20 purpose of supporting local solid waste and financial assistance
21 programs.

22 NEW SECTION. **Sec. 307.** If any provision of this act or its
23 application to any person or circumstance is held invalid, the
24 remainder of the act or the application of the provision to other
25 persons or circumstances is not affected.

26 NEW SECTION. **Sec. 308.** If specific funding for the purposes of
27 this act, referencing this act by bill or chapter number, is not
28 provided by June 30, 2025, in the omnibus appropriations act, this
29 act is null and void.

30 **Part Four**
31 **Codification Directives**

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

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