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**SUBSTITUTE HOUSE BILL 2049**

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**State of Washington**

**68th Legislature**

**2024 Regular Session**

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

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

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

11 **Part One**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (6) "Contamination" means:

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

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

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

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

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

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

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

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

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

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

38 (a) Becomes a reused material;

39 (b) Becomes a recycled material; or

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

3 (13) "Government entity" means any:

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (b) "Packaging" does not include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (b) "Producer" does not include:

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

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

13 (iii) De minimis producers.

14 (23) "Producer responsibility organization" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (32) "Reusable" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (c) The department must:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (b) Identifies any noncompliant producers; and

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

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

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

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

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

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

26 (2) The statewide needs assessment must:

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

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

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

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

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

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

5 (f) Reference local solid waste management plans;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11       (iii) Materials for alternative collection only.

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

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

16       (ii) Environmental health and safety considerations;

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

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

21       (v) The amount of the material available;

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

23       (vii) Contamination;

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

26       (ix) Economic factors;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (B) Generation of hazardous waste;

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

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

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

37 (F) Public health impacts; and

38 (G) Capture and recycling rates;

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

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

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

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

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

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

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

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

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

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

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

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

40 (ii) Inbound material quality and contamination;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (b) The fee system may include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (i) Government entities;

30 (ii) Tribal governments;

31 (iii) Nonprofit organizations; and

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

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

37 (i) The environmental benefits of the program;

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

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

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

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

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

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

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

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

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

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

1 providing opportunities to island and geographically isolated  
2 populations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (c) Annual independent auditing and verification must:

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

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

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

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

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

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

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

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

17        (e) Two representatives of environmental nonprofit organizations;

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

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

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

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

34        (j) One representative of a retail establishment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (a) Department resources, including staff time;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 **Part Two**

8 **Postconsumer Recycled Content Requirements**

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

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

15 (i) Water and flavored water;

16 (ii) Beer or other malt beverages;

17 (iii) Wine;

18 (iv) Distilled spirits;

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

21 (vi) Dairy milk; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 (iv) Paper-based beverage containers; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 (i) Household cleaning and personal care products;

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

38 (iii) Thermoform plastic containers;

39 (iv) Single-use plastic cups; and

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

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

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

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

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

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

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

18 (iii) Beverages that use plastic beverage containers;

19 (iv) Plastic tubs for food products;

20 (v) Thermoform plastic containers; and

21 (vi) Single-use plastic cups.

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

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

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

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

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

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

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

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

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

25 (b) "Producer" does not include:

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

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

30 (iii) De minimis producers.

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

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

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

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

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

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

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

8 (i) Commercially or home compostable cups;

9 (ii) Expanded polystyrene cups;

10 (iii) Thermoform plastic containers; or

11 (iv) Composite plastic-lined fiber cups.

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

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

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

23 (iii) Unfilled containers that are sold directly.

24 (b) "Thermoform plastic container" includes:

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

27 (ii) Two-piece unhinged containers;

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

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

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

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

33 (ii) Plastic tubs;

34 (iii) Reusable containers;

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

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

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

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

3 (vii) Commercially or home compostable containers;

4 (viii) Other PCRC products; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36       (1) For packaging for consumable goods:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 (ii) Recycling rates;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (a) Water and flavored water;

1 (b) Beer or other malt beverages;

2 (c) Wine;

3 (d) Distilled spirits;

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

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

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

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

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

27 (i) Plastic trash bags;

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

30 (iii) Beverages that use plastic beverage containers.

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

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

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

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

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

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

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

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

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

19 (b) Household cleaning products;

20 (c) Liquid soap;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (b) Plastic trash bags; and

31 (c) Plastic plant pots or trays.

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (iii) Until rules are adopted under (a)(iv) of this subsection,  
9 issue a general order to all entities falling within the definition  
10 of producer. The department must equitably determine fee amounts for  
11 an individual producer or third-party representatives within each  
12 category of covered product;

13 (iv) By 2024, adopt rules to equitably determine annual fee  
14 payments by producers or their third-party representatives within  
15 each category of covered product. Once such rules are adopted, the  
16 general order issued under (a)(iii) of this subsection is no longer  
17 effective; and

18 (v) Send notice to producers or their third-party representatives  
19 of fee amounts due consistent with either the general order issued  
20 under (a)(iii) of this subsection or rules adopted under (a)(iv) of  
21 this subsection.

22 (b) The department must:

23 (i) Apply any remaining annual payment funds from the current  
24 year to the annual payment for the coming year, if the collected  
25 annual payment exceeds the department's costs for a given year; and

26 (ii) Increase annual payments for the coming year to cover the  
27 department's costs, if the collected annual payment was less than the  
28 department's costs for a given year.

29 (c) By April 1, 2022, and every April 1st thereafter until April  
30 1, 2025, producers or their third-party representative must submit a  
31 fee payment as determined by the department under (a) of this  
32 subsection.

33 (4) A producer of a beverage (~~in a plastic beverage container~~  
34 ~~must meet the following annual minimum postconsumer recycled content~~  
35 ~~percentage)) in a plastic beverage container, except wine in 187  
36 milliliter plastic beverage containers and dairy milk, must achieve  
37 no less than 15 percent postconsumer recycled content plastic by  
38 weight on average for the total quantity of plastic beverage  
39 containers, by weight, that are sold, offered for sale, or  
40 distributed in or into Washington by the producer effective(÷~~

1 ~~(a) For beverages except wine in 187 milliliter plastic beverage~~  
2 ~~containers and dairy milk:~~

3 ~~(i)) for products manufactured between January 1, 2023, through~~  
4 ~~December 31, 2025 (:~~ ~~No less than 15 percent postconsumer recycled~~  
5 ~~content plastic by weight;~~

6 ~~(ii) January 1, 2026, through December 31, 2030: No less than 25~~  
7 ~~percent postconsumer recycled content plastic by weight; and~~

8 ~~(iii) On and after January 1, 2031: No less than 50 percent~~  
9 ~~postconsumer recycled content plastic by weight.~~

10 ~~(b) For wine in 187 milliliter plastic beverage containers and~~  
11 ~~dairy milk:~~

12 ~~(i) January 1, 2028, through December 31, 2030: No less than 15~~  
13 ~~percent postconsumer recycled content plastic by weight;~~

14 ~~(ii) January 1, 2031, through December 31, 2035: No less than 25~~  
15 ~~percent postconsumer recycled content plastic by weight; and~~

16 ~~(iii) On and after January 1, 2036: No less than 50 percent~~  
17 ~~postconsumer recycled content plastic by weight)).~~

18 (5) A producer of household cleaning and personal care products  
19 in plastic containers must meet the following annual minimum  
20 postconsumer recycled content percentage on average for the total  
21 quantity of plastic containers, by weight, that are sold, offered for  
22 sale, or distributed in or into Washington by the producer and  
23 manufactured between January 1, 2025, through December 31, 2025: No  
24 less than 15 percent postconsumer recycled content plastic by weight.

25 (6) A producer of household cleaning ((and)) or plastic personal  
26 care products that are pesticide products regulated by the federal  
27 insecticide, fungicide, and rodenticide act, 7 U.S.C. Sec. 136 et  
28 seq. and that are excluded from the requirements of chapters 70A.---  
29 (the new chapter created in section 501 of this act) and 70A.--- RCW  
30 (the new chapter created in section 502 of this act) in plastic  
31 containers that are in direct contact with the regulated product must  
32 meet the following annual minimum postconsumer recycled content  
33 percentage on average for the total quantity of plastic containers,  
34 by weight, that are sold, offered for sale, or distributed in or into  
35 Washington by the producer effective:

36 (a) Products manufactured between January 1, 2025, through  
37 December 31, 2027: No less than 15 percent postconsumer recycled  
38 content plastic by weight;

1 (b) Products manufactured between January 1, 2028, through  
2 December 31, 2030: No less than 25 percent postconsumer recycled  
3 content plastic by weight; and

4 (c) ~~((6))~~ Products manufactured on and after January 1, 2031: No  
5 less than 50 percent postconsumer recycled content plastic by weight.

6 ~~((6))~~ (7) A producer of plastic trash bags must meet the  
7 following annual minimum postconsumer recycled content percentage on  
8 average for the total quantity of plastic trash bags, by weight, that  
9 are sold, offered for sale, or distributed in or into Washington by  
10 the producer effective:

11 (a) Products manufactured between January 1, 2023, through  
12 December 31, 2024: No less than 10 percent postconsumer recycled  
13 content plastic by weight;

14 (b) Products manufactured between January 1, 2025, through  
15 December 31, 2026: No less than 15 percent postconsumer recycled  
16 content plastic by weight; and

17 (c) ~~((6))~~ Products manufactured on and after January 1, 2027: No  
18 less than 20 percent postconsumer recycled content plastic by weight.

19 ~~((7)(a) Beginning January 1, 2024, or when rule making is  
20 complete, whichever is sooner, the department may, on an annual basis  
21 on January 1st, review and determine for the following year whether  
22 to adjust the minimum postconsumer recycled content percentage  
23 required for a type of container or product or category of covered  
24 products pursuant to subsection (4), (5), or (6) of this section. The  
25 department's review may be initiated by the department or at the  
26 petition of a producer or a covered product manufacturing industry  
27 not more than once annually. When submitting a petition, producers or  
28 a producer manufacturing industry must provide necessary information  
29 that will allow the department to make a determination under (b) of  
30 this subsection.~~

31 ~~(b) In making a determination pursuant to this subsection, the  
32 department must consider, at a minimum, all of the following factors:~~

33 ~~(i) Changes in market conditions, including supply and demand for  
34 postconsumer recycled content plastics, collection rates, and bale  
35 availability both domestically and globally;~~

36 ~~(ii) Recycling rates;~~

37 ~~(iii) The availability of recycled plastic suitable to meet the  
38 minimum postconsumer recycled content requirements pursuant to  
39 subsection (4), (5), or (6) of this section, including the~~

1 availability of high quality recycled plastic, and food-grade  
2 recycled plastic from recycling programs;

3 (iv) The capacity of recycling or processing infrastructure;

4 (v) The technical feasibility of achieving the minimum  
5 postconsumer recycled content requirements in covered products that  
6 are regulated under 21 C.F.R., chapter I, subchapter G, 7 U.S.C. Sec.  
7 136, 15 U.S.C. Sec. 1471-1477, 49 C.F.R. Sec. 178.33b, 49 C.F.R. Sec.  
8 173, 40 C.F.R. Sec. 152.10, 15 U.S.C. Sec. 1261-1278, 49 U.S.C. 5101  
9 et seq., 49 C.F.R. Sec. 178.509, 49 C.F.R. Sec. 179.522, 49 C.F.R.  
10 Sec. 178.600-609, and other federal laws; and

11 (vi) The progress made by producers in achieving the goals of  
12 this section.

13 (c) Under (a) of this subsection:

14 (i) The department may not adjust the minimum postconsumer  
15 recycled content requirements above the minimum postconsumer recycled  
16 content percentages for the year under review required pursuant to  
17 subsection (4), (5), or (6) of this section.

18 (ii)) (8) A producer of plastic plant pots or trays must meet  
19 the following annual minimum postconsumer recycled content percentage  
20 on average for the total quantity of plastic plant pots or trays, by  
21 weight, that are sold, offered for sale, or distributed in or into  
22 Washington by the producer effective:

23 (a) Products manufactured between January 1, 2026, through  
24 December 31, 2030: No less than 30 percent postconsumer recycled  
25 content plastic by weight;

26 (b) Products manufactured on and after January 1, 2031: No less  
27 than 80 percent postconsumer recycled content plastic by weight.

28 (9)(a) The department must manage requests by producers under  
29 this chapter for a PCRC rate adjustment, extension, or temporary  
30 exclusion in a manner consistent with the procedures for the  
31 submission and review of rate adjustments, extensions, or temporary  
32 exclusions by producer responsibility organizations under section 209  
33 of this act. Subsections (b), (c), and (d) of this subsection provide  
34 specific additional provisions applicable to the rate adjustments,  
35 extensions, or temporary exclusions allowed under this chapter.

36 (b) For plastic household cleaning and personal care product  
37 containers, the department may not adjust the minimum postconsumer  
38 recycled content requirements above the minimum postconsumer recycled  
39 content percentages for the year under review required pursuant to

1 subsection (~~(5)~~) (6) of this section or below a minimum of 10  
2 percent.

3 (~~(iii)~~) (c) For plastic trash bags, the department may not  
4 adjust the minimum postconsumer recycled content requirements above  
5 the minimum postconsumer recycled content percentages for the year  
6 under review required pursuant to (~~subsection (6) of~~) this section  
7 or below the minimum percentage required in (~~subsection (6)(a) of~~)  
8 this section.

9 (d) (~~A producer or the manufacturing industry for a covered~~  
10 ~~product may appeal a decision by the department to adjust~~  
11 ~~postconsumer recycled content percentages under (a) of this~~  
12 ~~subsection or to temporarily exclude covered products from minimum~~  
13 ~~postconsumer recycled content requirements under subsection (8) of~~  
14 ~~this section to the pollution control hearings board within 30 days~~  
15 ~~of the department's determination.~~

16 ~~(8) The department must temporarily exclude from minimum~~  
17 ~~postconsumer recycled content requirements for the upcoming year any~~  
18 ~~types of covered products in plastic containers for which a producer~~  
19 ~~annually demonstrates to the department by December 31st of a given~~  
20 ~~year that the achievement of postconsumer recycled content~~  
21 ~~requirements in the container material is not technically feasible in~~  
22 ~~order to comply with health or safety requirements of federal law,~~  
23 ~~including the federal laws specified in subsection (7)(b)(v) of this~~  
24 ~~section. A producer must continue to register and report consistent~~  
25 ~~with the requirements of this chapter for covered products~~  
26 ~~temporarily excluded from minimum postconsumer recycled content~~  
27 ~~requirements under this subsection)) Any exclusion for a product  
28 regulated under 7 U.S.C. Sec. 136 et seq. must be granted for a  
29 period of four years from the date of department approval.~~

30 (~~(9)~~) (10) A producer that does not achieve the postconsumer  
31 recycled content requirements established under this section or does  
32 not comply with the labeling requirements established in RCW  
33 70A.245.060 is subject to penalties established in RCW 70A.245.040.

34 (~~(10)~~) (11)(a) A city, town, county, or municipal corporation  
35 may not implement local recycled content requirements for (~~a covered~~  
36 ~~product that is~~) certified PCRC products or covered products that  
37 are subject to minimum postconsumer recycled content requirements  
38 established in this section.

39 (b) A city, town, county, or municipal corporation may establish  
40 local purchasing requirements that include recycled content standards

1 that exceed the minimum recycled content requirements established by  
2 this chapter for ~~((plastic household cleaning and personal care  
3 product containers or plastic trash bags))~~ certified PCRC products or  
4 covered products purchased by a city, town, or municipal corporation,  
5 or its contractor.

6 ~~((11) The department may enter into contracts for the services  
7 required to implement this chapter and related duties of the  
8 department.))~~

9 (12) In-state distributors, wholesalers, and retailers in  
10 possession of ~~((covered products))~~ certified PCRC products or covered  
11 products manufactured before the date that postconsumer recycled  
12 content requirements become effective may exhaust their existing  
13 stock through sales to the public.

14 **Sec. 215.** RCW 70A.245.030 and 2021 c 313 s 4 are each amended to  
15 read as follows:

16 (1) (a) Except as provided in (b) ~~((and (e)))~~ of this subsection,  
17 ~~((beginning))~~ on April 1, 2024, and April 1, 2025, each producer of  
18 covered products, individually or through a third party representing  
19 a group of producers, must provide an annual report to the department  
20 that includes the amount in pounds of virgin plastic and the amount  
21 in pounds of postconsumer recycled content by resin type used for  
22 each category of covered products that are sold, offered for sale, or  
23 distributed in or into Washington state, including the total  
24 postconsumer recycled content resins as a percentage of total weight.  
25 The report must be submitted in a format and manner prescribed by the  
26 department. A manufacturer may submit national data allocated on a  
27 per capita basis for Washington to approximate the information  
28 required in this subsection if the producer or third-party  
29 representative demonstrates to the department that state level data  
30 are not available or feasible to generate.

31 (b) The requirements of (a) of this subsection apply to household  
32 cleaning and personal care products in plastic containers beginning  
33 April 1, 2026.

34 (c) ~~((The requirements of (a) of this subsection apply to wine in  
35 187 milliliter plastic beverage containers and dairy milk in plastic  
36 beverage containers beginning April 1, 2029.~~

37 ~~(d))~~ The department must post the information reported under  
38 this subsection on its website, except as provided in subsection (2)  
39 of this section.

1 (d) A plastic trash bag producer must develop a certificate of  
2 compliance within one year of the beginning of postconsumer recycled  
3 content requirements applicable to a plastic trash bag, conducted by  
4 a third-party certification entity, stating that a plastic trash bag  
5 is in compliance with the labeling requirements of RCW 70A.245.060  
6 and the postconsumer recycled content requirements of RCW 70.245.020.  
7 A producer of other certified PCRC products must maintain a  
8 certificate of compliance stating that the certified PCRC product is  
9 in compliance with the postconsumer recycled content requirements of  
10 RCW 70A.245.020. A third-party certification entity must be an  
11 independent, accredited (ISO/IEC 17065) certifying body.

12 (2) A producer that submits information or records to the  
13 department under this chapter may request that the information or  
14 records be made available only for the confidential use of the  
15 department, the director, or the appropriate division of the  
16 department. The director of the department must give consideration to  
17 the request and if this action is not detrimental to the public  
18 interest and is otherwise in accordance with the policies and  
19 purposes of chapter 43.21A RCW, the director must grant the request  
20 for the information to remain confidential as authorized in RCW  
21 43.21A.160. The director shall develop a compliance certificate by  
22 the dates on which the postconsumer recycled content requirements in  
23 RCW 70A.245.020 take effect for the producer's certified PCRC  
24 products.

25 (3) If compliance with minimum recycled content requirements is  
26 achieved through an adjustment or temporary exclusion made pursuant  
27 to RCW 70A.245.020, the certificate must state the specific basis  
28 upon which the temporary exclusion or adjustment is claimed.

29 (4)(a) The certificate of compliance must be signed by an  
30 authorized official of the producer unless the certificate is  
31 provided by a third-party certification entity.

32 (b) The certificate of compliance must be kept on file by the  
33 producer for three years from the date of the last sale or  
34 distribution by the producer.

35 (c) A producer must furnish a certificate of compliance to the  
36 department upon request within 60 days.

37 (d) Requests from a member of the public for any certificate of  
38 compliance must be made in writing to the department and must be  
39 specific as to the certified PCRC product information requested. The

1 department must respond to requests from a member of the public under  
2 this subsection within 90 days.

3 (e) If a person is required under any other state statute,  
4 including chapter 70A.222 RCW, to provide a certificate of  
5 compliance, one certificate may be developed containing all required  
6 information.

7 (f) If the producer of the certified PCRC product reformulates or  
8 creates a new certified PCRC product, the producer shall develop an  
9 amended or new certificate of compliance for the reformulated or new  
10 certified PCRC product.

11 **Sec. 216.** RCW 70A.245.040 and 2021 c 313 s 5 are each amended to  
12 read as follows:

13 (1) For covered products:

14 (a) A producer that does not meet the minimum postconsumer  
15 recycled content requirements pursuant to RCW 70A.245.020 is subject  
16 to a penalty pursuant to this section. Beginning June 1st of the year  
17 following the first year that minimum postconsumer recycled product  
18 content requirements apply to a category of covered product, the  
19 penalty must be calculated consistent with subsection (2) of this  
20 section unless a penalty reduction or corrective action plan has been  
21 approved pursuant to subsection (3) of this section.

22 (b) A producer that is assessed a penalty pursuant to this  
23 section may pay the penalty to the department in one payment, in  
24 quarterly installments, or arrange an alternative payment schedule  
25 subject to the approval of the department, not to exceed a 12-month  
26 payment schedule unless the department determines an extension is  
27 needed due to unforeseen circumstances, such as a public health  
28 emergency, state of emergency, or natural disaster.

29 (2) Beginning June 1st of the year following the first year that  
30 minimum postconsumer recycled product content requirements apply to a  
31 category of covered product, and annually thereafter, the department  
32 shall determine the penalty for the previous calendar year based on  
33 the postconsumer recycled content requirement of the previous  
34 calendar year. The department shall calculate the amount of the  
35 penalty based upon the amounts in pounds in the aggregate of virgin  
36 plastic, postconsumer recycled content plastic, and any other plastic  
37 per category used by the producer to produce covered products sold or  
38 offered for sale in or into Washington state, in accordance with the  
39 following:

1 (a)(i) The annual penalty amount assessed to a producer must  
2 equal the product of both of the following: The total pounds of  
3 plastic used per category multiplied by the relevant minimum  
4 postconsumer recycled plastic target percentage, less the pounds of  
5 total plastic multiplied by the percent of postconsumer recycled  
6 plastic used; multiplied by 20 cents.

7 (ii) Example: [(Total pounds of plastic used x minimum  
8 postconsumer recycled plastic target percentage) - (Total pounds of  
9 plastic used x postconsumer recycled plastic percentage used)] x 20  
10 cents.

11 (b) For the purposes of (a) of this subsection, both of the  
12 following apply:

13 (i) The total pounds of plastic used must equal the sum of the  
14 amount of virgin plastic, postconsumer recycled content plastic, and  
15 any other plastic used by the producer, as reported pursuant to RCW  
16 70A.245.030.

17 (ii) If the product calculated pursuant to (a) of this subsection  
18 is equal to or less than zero, the department may not assess a  
19 penalty.

20 (3)(a)(i) The department shall consider granting a reduction of  
21 penalties assessed pursuant to this section for the purpose of  
22 meeting the minimum postconsumer recycled content requirements  
23 required pursuant to RCW 70A.245.020.

24 (ii) In determining whether to grant the reduction pursuant to  
25 (a)(i) of this subsection, the department shall consider, at a  
26 minimum, all of the following factors:

27 (A) Anomalous market conditions;

28 (B) Disruption in, or lack of supply of, recycled plastics; and

29 (C) Other factors that have prevented a producer from meeting the  
30 requirements.

31 (b) In lieu of or in addition to assessing a penalty under this  
32 section, the department may require a producer to submit a corrective  
33 action plan detailing how the producer plans to come into compliance  
34 with RCW 70A.245.020.

35 (4) For the purposes of determining compliance with the  
36 postconsumer recycled content requirements of this chapter, the  
37 department may consider the date of manufacture of a covered product  
38 or the container of a covered product.

39 (5) A producer shall pay the penalty assessed pursuant to this  
40 section, as applicable, based on the information reported to the

1 department as required under RCW 70A.245.030 in the form and manner  
2 prescribed by the department.

3 (6) For certified PCRC products:

4 (a) The department may assess a civil penalty to a producer in  
5 violation of the requirements of RCW 70A.245.020, 70A.245.030, or  
6 70A.245.060 in the amount of up to \$2,000 for the first violation of  
7 this chapter, up to \$5,000 for the second violation of this chapter,  
8 and up to \$10,000 for the third and any subsequent violation of RCW  
9 70A.245.020, 70A.245.030, or 70A.245.060.

10 (b) A specific violation is deemed to have occurred upon the sale  
11 of noncompliant product by stock-keeping unit number or unique item  
12 number. The repeated sale of the same noncompliant product by stock-  
13 keeping unit number or unique item number is considered a single  
14 violation.

15 (7) For the purposes of determining compliance with the  
16 postconsumer recycled content requirements of this chapter, the  
17 department may consider the date of manufacture of a certified PCRC  
18 product.

19 (8) A producer may appeal the penalty assessed under this section  
20 to the pollution control hearings board within 30 days of assessment.

21 ((+7)) (9) Penalties collected under this section must be  
22 deposited in the recycling enhancement account created in RCW  
23 70A.245.100.

24 **Sec. 217.** RCW 70A.245.090 and 2021 c 313 s 12 are each amended  
25 to read as follows:

26 (1) ((The)) Until December 31, 2025, the department may conduct  
27 audits and investigations for the purpose of ensuring covered product  
28 compliance with RCW 70A.245.020 and 70A.245.040 based on the  
29 information reported under RCW 70A.245.030.

30 (2) ((The)) Until December 31, 2025, the department shall  
31 annually publish a list of registered producers of covered products  
32 and associated brand names, their compliance status, and other  
33 information the department deems appropriate on the department's  
34 website.

35 (3) To assist regulated parties with the requirements specified  
36 under RCW 70A.245.070 and 70A.245.080, the department:

37 (a) Must prepare and post on its website information regarding  
38 the prohibitions on the sale and distribution of expanded polystyrene

1 products as specified under RCW 70A.245.070 and restrictions on the  
2 provision of optional serviceware under RCW 70A.245.080;

3 (b) For education and outreach to help implement RCW 70A.245.070  
4 and 70A.245.080, may develop culturally appropriate and translated  
5 educational materials and resources for the state's diverse ethnic  
6 populations from existing materials used by local jurisdictions and  
7 other states.

8 (4) The department may adopt rules as necessary to administer,  
9 implement, and enforce this chapter.

10 **Sec. 218.** RCW 70A.245.100 and 2021 c 313 s 13 are each amended  
11 to read as follows:

12 The recycling enhancement account is created in the custody of  
13 the state treasurer. All penalties collected by the department  
14 pursuant to RCW 70A.245.040 (~~and~~), 70A.245.050, and sections 123  
15 and 211 of this act must be deposited in the account. Only the  
16 director of the department or the director's designee may authorize  
17 expenditures from the account. The account is subject to the  
18 allotment procedures under chapter 43.88 RCW, but an appropriation is  
19 not required for expenditures. Expenditures from the account may be  
20 used by the department only for providing grants to local governments  
21 for the purpose of supporting local solid waste and financial  
22 assistance programs.

23 **Sec. 219.** RCW 70A.245.120 and 2021 c 313 s 15 are each amended  
24 to read as follows:

25 (1) Subject to the availability of amounts appropriated for this  
26 specific purpose prior to January 1, 2028, the department shall  
27 contract with a research university or an independent third-party  
28 consultant to study the plastic resin markets for all of the  
29 following:

30 (a) Analyzing market conditions and opportunities in the state's  
31 recycling industry for meeting the minimum postconsumer recycled  
32 content requirements for (~~covered products~~) certified PCRC products  
33 pursuant to RCW 70A.245.020 and 70A.245.030 for products subject to  
34 minimum postconsumer recycled content requirements under chapter  
35 70A.--- RCW (the new chapter created in section 502 of this act) and  
36 this chapter, and for plastic collection bins subject to section 221  
37 of this act; and

1 (b) Determining the data needs and tracking opportunities to  
2 increase the transparency and support of a more effective, fact-based  
3 public understanding of the recycling industry.

4 (2) If funding is provided pursuant to subsection (1) of this  
5 section and the department undertakes the study, the study must be  
6 completed by May 1, 2029.

7 (3) This section expires July 1, 2029.

8 **Sec. 220.** RCW 70A.245.060 and 2021 c 313 s 7 are each amended to  
9 read as follows:

10 (1) Beginning January 1, 2023, producers shall label each package  
11 containing plastic trash bags sold, offered for sale, or distributed  
12 in or into Washington with:

13 (a) The name of the producer and the city, state, and country  
14 where the producer is located, which may be designated as the  
15 location of the producer's corporate headquarters, and, beginning  
16 January 1, 2026, the percentage of postconsumer recycled content that  
17 the plastic trash bag contains in accordance with 16 C.F.R. Part 260,  
18 as it existed as of the effective date of this section; or

19 (b) A uniform resource locator or quick response code to an  
20 internet website that contains the information required pursuant to  
21 (a) of this subsection.

22 (2)(a) The provisions of subsection (1) of this section do not  
23 apply to a plastic bag that is designed and manufactured to hold,  
24 store, or transport dangerous waste or biomedical waste.

25 (b) For the purposes of this subsection:

26 (i) "Biomedical waste" means any waste defined as that term under  
27 RCW 70A.228.010; and

28 (ii) "Dangerous waste" means any waste defined as dangerous  
29 wastes under RCW 70A.300.010.

30 NEW SECTION. **Sec. 221.** A new section is added to chapter  
31 70A.245 RCW to read as follows:

32 ROLL CARTS. (1) Beginning January 1, 2025, a manufacturer or  
33 person may only sell, offer for sale, or distribute for use in  
34 Washington plastic collection bins made from at least 25 percent  
35 postconsumer recycled content. However, a person providing solid  
36 waste collection services may distribute for use in Washington any  
37 plastic collection bins that were in use or in its inventory in

1 Washington state prior to January 1, 2025, until the end of such a  
2 bin's useful life.

3 (2) A person with an existing municipal contract for plastic  
4 collection bins that was in place prior to August 1, 2024, is exempt  
5 from this section until the expiration or renewal date of the  
6 contract. A new or renewed contract whose terms take effect after  
7 August 1, 2024, must be consistent with the requirements of this  
8 section. Exempt persons are encouraged to meet the requirements of  
9 this section as collection bins are replaced under existing  
10 contracts.

11 (3) Manufacturers of plastic collection bins, including persons  
12 that sell, offer for sale, distribute, or provide collection bins in  
13 Washington must provide written evidence or certification, upon  
14 request, to the department or any municipality, retailer, stewardship  
15 organization, solid waste collection company, or other purchaser of  
16 collection bins showing that their collection bins meet the  
17 requirements of this section.

18 (4) For the purposes of this section, "plastic collection bins"  
19 include plastic bins, cans, carts, totes, roll carts, or other  
20 receptacles used to collect recyclables, compostable materials, or  
21 garbage used by solid waste collection services.

### 22 **Part Three**

#### 23 **Amendments to Solid Waste Management Laws**

24 **Sec. 301.** RCW 70A.205.005 and 2002 c 299 s 3 are each amended to  
25 read as follows:

26 The legislature finds:

27 (1) Continuing technological changes in methods of manufacture,  
28 packaging, and marketing of consumer products, together with the  
29 economic and population growth of this state, the rising affluence of  
30 its citizens, and its expanding industrial activity have created new  
31 and ever-mounting problems involving disposal of garbage, refuse, and  
32 solid waste materials resulting from domestic, agricultural, and  
33 industrial activities.

34 (2) Traditional methods of disposing of solid wastes in this  
35 state are no longer adequate to meet the ever-increasing problem.  
36 Improper methods and practices of handling and disposal of solid  
37 wastes pollute our land, air and water resources, blight our

1 countryside, adversely affect land values, and damage the overall  
2 quality of our environment.

3 (3) Considerations of natural resource limitations, energy  
4 shortages, economics and the environment make necessary the  
5 development and implementation of solid waste recovery and/or  
6 recycling plans and programs.

7 (4) Waste reduction must become a fundamental strategy of solid  
8 waste management. It is therefore necessary to change manufacturing  
9 and purchasing practices and waste generation behaviors to reduce the  
10 amount of waste that becomes a governmental responsibility.

11 (5) Source separation of waste must become a fundamental strategy  
12 of solid waste management. Collection and handling strategies should  
13 have, as an ultimate goal, the source separation of all materials  
14 with resource value or environmental hazard.

15 (6) (a) It should be the goal of every person and business to  
16 minimize their production of wastes and to separate recyclable or  
17 hazardous materials from mixed waste.

18 (b) It is the responsibility of state, county, and city  
19 governments to provide for a waste management infrastructure to fully  
20 implement waste reduction and source separation strategies and to  
21 process and dispose of remaining wastes in a manner that is  
22 environmentally safe and economically sound. It is further the  
23 responsibility of state, county, and city governments to monitor the  
24 cost-effectiveness and environmental safety of combusting separated  
25 waste, processing mixed municipal solid waste, and recycling  
26 programs.

27 (c) It is the responsibility of county and city governments to  
28 assume primary responsibility for solid waste management and to  
29 develop and implement aggressive and effective waste reduction and  
30 source separation strategies.

31 (d) It is the responsibility of state government to ensure that  
32 local governments are providing adequate source reduction and  
33 separation opportunities and incentives to all, including persons in  
34 both rural and urban areas, and nonresidential waste generators such  
35 as commercial, industrial, and institutional entities, recognizing  
36 the need to provide flexibility to accommodate differing population  
37 densities, distances to and availability of recycling markets, and  
38 collection and disposal costs in each community; and to provide  
39 county and city governments with adequate technical resources to  
40 accomplish this responsibility.

1       (e) It is the responsibility of producers to help provide for the  
2 responsible management of their products.

3       (7) Environmental and economic considerations in solving the  
4 state's solid waste management problems requires strong consideration  
5 by local governments of regional solutions and intergovernmental  
6 cooperation.

7       (8) The following priorities for the collection, handling, and  
8 management of solid waste are necessary and should be followed in  
9 descending order as applicable:

10       (a) Waste reduction;

11       (b) Recycling, with source separation of recyclable materials as  
12 the preferred method;

13       (c) Energy recovery, incineration, or landfill of separated  
14 waste;

15       (d) Energy recovery, incineration, or landfill of mixed municipal  
16 solid wastes.

17       (9) It is the state's goal to achieve a (~~fifty~~) 50 percent  
18 recycling rate by 2007.

19       (10) It is the state's goal that programs be established to  
20 eliminate residential or commercial yard debris in landfills by 2012  
21 in those areas where alternatives to disposal are readily available  
22 and effective.

23       (11) Steps should be taken to make recycling at least as  
24 affordable and convenient to the ratepayer as mixed waste disposal.

25       (12) It is necessary to compile and maintain adequate data on the  
26 types and quantities of solid waste that are being generated and to  
27 monitor how the various types of solid waste are being managed.

28       (13) Vehicle batteries should be recycled and the disposal of  
29 vehicle batteries into landfills or incinerators should be  
30 discontinued.

31       (14) Excessive and nonrecyclable packaging of products should be  
32 avoided.

33       (15) Comprehensive education should be conducted throughout the  
34 state so that people are informed of the need to reduce, source  
35 separate, and recycle solid waste.

36       (16) All governmental entities in the state should set an example  
37 by implementing aggressive waste reduction and recycling programs at  
38 their workplaces and by purchasing products that are made from  
39 recycled materials and are recyclable.

1 (17) To ensure the safe and efficient operations of solid waste  
2 disposal facilities, it is necessary for operators and regulators of  
3 landfills and incinerators to receive training and certification.

4 (18) It is necessary to provide adequate funding to all levels of  
5 government so that successful waste reduction and recycling programs  
6 can be implemented.

7 (19) The development of stable and expanding markets for  
8 recyclable materials is critical to the long-term success of the  
9 state's recycling goals. Market development must be encouraged on a  
10 state, regional, and national basis to maximize its effectiveness.  
11 The state shall assume primary responsibility for the development of  
12 a multifaceted market development program to carry out the purposes  
13 of chapter 431, Laws of 1989.

14 (20) There is an imperative need to anticipate, plan for, and  
15 accomplish effective storage, control, recovery, and recycling of  
16 discarded tires and other problem wastes with the subsequent  
17 conservation of resources and energy.

18 **Sec. 302.** RCW 70A.205.010 and 2005 c 394 s 2 are each amended to  
19 read as follows:

20 (1) The purpose of this chapter is to establish a comprehensive  
21 statewide program for solid waste handling, and solid waste recovery  
22 and/or recycling which will prevent land, air, and water pollution  
23 and conserve the natural, economic, and energy resources of this  
24 state. To this end it is the purpose of this chapter:

25 ~~((1))~~ (a) To assign primary responsibility for adequate solid  
26 waste handling to local government, reserving to the state, however,  
27 those functions necessary to assure effective programs throughout the  
28 state;

29 ~~((2))~~ (b) To provide for adequate planning for solid waste  
30 handling by local government;

31 ~~((3))~~ (c) To provide for the adoption and enforcement of basic  
32 minimum performance standards for solid waste handling, including  
33 that all sites where recyclable materials are generated and  
34 transported from shall provide a separate container for solid waste;

35 ~~((4))~~ (d) To encourage the development and operation of waste  
36 recycling facilities needed to accomplish the management priority of  
37 waste recycling, to promote consistency in the requirements for such  
38 facilities throughout the state, and to ensure that recyclable

1 materials diverted from the waste stream for recycling are routed to  
2 facilities in which recycling occurs;

3 ~~((5))~~ (e) To provide technical and financial assistance to  
4 local governments in the planning, development, and conduct of solid  
5 waste handling programs;

6 ~~((6))~~ (f) To encourage storage, proper disposal, and recycling  
7 of discarded vehicle tires and to stimulate private recycling  
8 programs throughout the state; ~~(and~~

9 ~~(7))~~ (g) To encourage the development and operation of waste  
10 recycling facilities and activities needed to accomplish the  
11 management priority of waste recycling and to promote consistency in  
12 the permitting requirements for such facilities and activities  
13 throughout the state; and

14 (h) To assign producer responsibility for covered products under  
15 chapters 70A.500, 70A.505, 70A.510, 70A.515, 70A.550, 69.48, and  
16 70A.--- RCW (the new chapter created in section 501 of this act).

17 (2) It is the intent of the legislature that local governments be  
18 encouraged to use the expertise of private industry and to contract  
19 with private industry to the fullest extent possible to carry out  
20 solid waste recovery and/or recycling programs.

21 **Sec. 303.** RCW 70A.205.045 and 2020 c 20 s 1163 are each amended  
22 to read as follows:

23 Each county and city comprehensive solid waste management plan  
24 shall include the following:

25 (1) A detailed inventory and description of all existing solid  
26 waste handling facilities including an inventory of any deficiencies  
27 in meeting current solid waste handling needs.

28 (2) The estimated long-range needs for solid waste handling  
29 facilities projected ~~((twenty))~~ 20 years into the future.

30 (3) A program for the orderly development of solid waste handling  
31 facilities in a manner consistent with the plans for the entire  
32 county which shall:

33 (a) Meet the minimum functional standards for solid waste  
34 handling adopted by the department and all laws and regulations  
35 relating to air and water pollution, fire prevention, flood control,  
36 and protection of public health;

37 (b) Take into account the comprehensive land use plan of each  
38 jurisdiction;

1 (c) Contain a six year construction and capital acquisition  
2 program for solid waste handling facilities; and

3 (d) Contain a plan for financing both capital costs and  
4 operational expenditures of the proposed solid waste management  
5 system.

6 (4) A program for surveillance and control.

7 (5) A current inventory and description of solid waste collection  
8 needs and operations within each respective jurisdiction which shall  
9 include:

10 (a) Any franchise for solid waste collection granted by the  
11 utilities and transportation commission in the respective  
12 jurisdictions including the name of the holder of the franchise and  
13 the address of his or her place of business and the area covered by  
14 the franchise;

15 (b) Any city solid waste operation within the county and the  
16 boundaries of such operation;

17 (c) The population density of each area serviced by a city  
18 operation or by a franchised operation within the respective  
19 jurisdictions;

20 (d) The projected solid waste collection needs for the respective  
21 jurisdictions for the next six years.

22 (6) A comprehensive waste reduction and recycling element that,  
23 in accordance with the priorities established in RCW 70A.205.005,  
24 provides programs that (a) reduce the amount of waste generated, (b)  
25 provide incentives and mechanisms for source separation, and (c)  
26 establish recycling opportunities for the source separated waste.

27 (7) The waste reduction and recycling element shall include the  
28 following:

29 (a) Waste reduction (~~((strategies, which may include))~~) strategies  
30 to reduce wasted food and food waste that are designed to achieve the  
31 goals established in RCW 70A.205.715(1) and that are consistent with  
32 the plan developed in RCW 70A.205.715(3);

33 (b) Source separation strategies, including:

34 (i) Programs for the collection of source separated materials  
35 from residences (~~((in urban and rural areas. In urban areas, these))~~).

36 (A) Until January 1, 2029, these programs shall include  
37 collection of source separated recyclable materials from single and  
38 multiple-family residences, in urban areas, unless the department  
39 approves an alternative program, according to the criteria in the  
40 planning guidelines. Such criteria shall include: Anticipated

1 recovery rates and levels of public participation, availability of  
2 environmentally sound disposal capacity, access to markets for  
3 recyclable materials, unreasonable cost impacts on the ratepayer over  
4 the six-year planning period, utilization of environmentally sound  
5 waste reduction and recycling technologies, and other factors as  
6 appropriate. In rural areas, these programs shall include but not be  
7 limited to drop-off boxes, buy-back centers, or a combination of  
8 both, at each solid waste transfer, processing, or disposal site, or  
9 at locations convenient to the residents of the county. The drop-off  
10 boxes and buy-back centers may be owned or operated by public,  
11 nonprofit, or private persons;

12 (B) Beginning January 1, 2029, except where the county has  
13 adopted an ordinance consistent with section 114 of this act  
14 establishing that the full list of materials on the uniform statewide  
15 collection list for curbside recycling programs established by the  
16 department must be collected exclusively through drop-off locations  
17 in areas regulated by the utilities and transportation commission  
18 under the provisions of chapter 81.77 RCW as allowed under the  
19 provisions of chapter 70A.--- RCW (the new chapter created in section  
20 501 of this act), these programs shall:

21 (I) Provide curbside collection of source separated recyclable  
22 materials from single-family and multiple-family residences wherever  
23 curbside garbage collection services are provided to these entities;

24 (II) Include materials on the uniform statewide collection list  
25 designated for curbside collection established by the department; and

26 (III) Include the service standards for curbside collection  
27 frequency, container size, and method of collection, established  
28 under plans approved by the department under chapter 70A.--- RCW (the  
29 new chapter created in section 501 of this act);

30 (C) Comprehensive solid waste management plans that are newly  
31 developed, updated, or amended after October 1, 2027, may incorporate  
32 by reference programs described in an approved producer  
33 responsibility organization plan under chapter 70A.--- RCW (the new  
34 chapter created in section 501 of this act) to fulfill this  
35 requirement in whole or in part;

36 (D) Before January 1, 2029, each comprehensive solid waste  
37 management plan must be amended, revised, or updated by a  
38 jurisdiction consistent with the requirements of this subsection  
39 (7)(b)(i). Beginning January 1, 2029, until a comprehensive solid  
40 waste management plan is amended, revised, or updated to be

1 consistent with the requirements of this subsection (7)(b)(i), the  
2 model comprehensive solid waste plan amendment provided by the  
3 department under section 104 of this act applies in the jurisdiction;

4 (ii) Programs to monitor the collection of source separated waste  
5 at nonresidential sites where there is sufficient density to sustain  
6 a program;

7 (iii) Programs to collect yard waste and food waste, if the  
8 county or city submitting the plan finds that there are adequate  
9 markets or capacity for composted yard waste and food waste within or  
10 near the service area to consume the majority of the material  
11 collected; and

12 (iv) Programs to educate and promote the concepts of waste  
13 reduction, reuse, and recycling;

14 (c) (~~Recycling strategies, including a description of markets~~  
15 ~~for recyclables, a review of waste generation trends, a description~~  
16 ~~of waste composition, a discussion and description of existing~~  
17 ~~programs and any additional programs needed to assist public and~~  
18 ~~private sector recycling, and an implementation schedule for the~~  
19 ~~designation of specific materials to be collected for recycling, and~~  
20 ~~for the provision of recycling collection services;~~

21 ~~(d))~~ Other information the county or city submitting the plan  
22 determines is necessary.

23 (8) An assessment of the plan's impact on the costs of solid  
24 waste collection. The assessment shall be prepared in conformance  
25 with guidelines established by the utilities and transportation  
26 commission. The commission shall cooperate with the Washington state  
27 association of counties and the association of Washington cities in  
28 establishing such guidelines.

29 (9) A review of potential areas that meet the criteria as  
30 outlined in RCW 70A.205.110.

31 (10) A contamination reduction and outreach plan. The  
32 contamination reduction and outreach plan must address reducing  
33 contamination in recycling. Except for counties with a population of  
34 (~~twenty-five thousand~~) 25,000 or fewer, by July 1, 2021, a  
35 contamination reduction and outreach plan must be included in each  
36 solid waste management plan by a plan amendment or included when  
37 revising or updating a solid waste management plan developed under  
38 this chapter. Jurisdictions may adopt the state's contamination  
39 reduction and outreach plan as developed under RCW 70A.205.070 or  
40 participate in a producer responsibility organization's plan in lieu

1 of creating their own plan. A recycling contamination reduction and  
2 outreach plan must include the following:

3 (a) A list of actions for reducing contamination in recycling  
4 programs for single-family and multiple-family residences, commercial  
5 locations, and drop boxes depending on the jurisdictions system  
6 components;

7 (b) A list of key contaminants identified by the jurisdiction or  
8 identified by the department;

9 (c) A discussion of problem contaminants and the contaminants'  
10 impact on the collection system;

11 (d) An analysis of the costs and other impacts associated with  
12 contaminants to the recycling system; and

13 (e) An implementation schedule and details of how outreach is to  
14 be conducted. Contamination reduction education methods may include  
15 sharing community-wide messaging through newsletters, articles,  
16 mailers, social media, websites, or community events, informing  
17 recycling drop box customers about contamination, and improving  
18 signage.

19 **Sec. 304.** RCW 81.77.030 and 2020 c 20 s 1467 are each amended to  
20 read as follows:

21 (1) The commission shall supervise and regulate every solid waste  
22 collection company in this state,

23 ~~((1))~~ (a) By fixing and altering its rates, charges,  
24 classifications, rules and regulations;

25 ~~((2))~~ (b) By regulating the accounts, service, and safety of  
26 operations;

27 ~~((3))~~ (c) By requiring the filing of annual and other reports  
28 and data;

29 ~~((4))~~ (d) By supervising and regulating such persons or  
30 companies in all other matters affecting the relationship between  
31 them and the public which they serve;

32 ~~((5))~~ (e) By requiring compliance with local solid waste  
33 management plans and related implementation ordinances;

34 ~~((6))~~ (f) By reviewing producer responsibility organization  
35 reimbursement of regulated service providers consistent with the  
36 requirements of chapter 70A.--- RCW (the new chapter created in  
37 section 501 of this act);

38 (g) By requiring certificate holders under this chapter ~~((81.77~~  
39 ~~RCW))~~ to use rate structures and billing systems consistent with the

1 solid waste management priorities set forth under RCW 70A.205.005 and  
2 the minimum levels of solid waste collection and recycling services  
3 pursuant to local comprehensive solid waste management plans. The  
4 commission may order consolidated billing and provide for reasonable  
5 and necessary expenses to be paid to the administering company if  
6 more than one certificate is granted in an area; and

7 (h) By requiring certificate holders under this chapter to  
8 deliver covered products, as defined in section 102 of this act,  
9 collected from residents only to facilities that meet the  
10 requirements of section 110(2) of this act.

11 (2) The commission, on complaint made on its own motion or by an  
12 aggrieved party, at any time, after providing the holder of any  
13 certificate with notice and an opportunity for a hearing at which it  
14 shall be proven that the holder has willfully violated or refused to  
15 observe any of the commission's orders, rules, or regulations, or has  
16 failed to operate as a solid waste collection company for a period of  
17 at least one year preceding the filing of the complaint, may suspend,  
18 revoke, alter, or amend any certificate issued under the provisions  
19 of this chapter.

20 **Sec. 305.** RCW 81.77.160 and 1997 c 434 s 1 are each amended to  
21 read as follows:

22 (1) The commission, in fixing and altering collection rates  
23 charged by every solid waste collection company under this section,  
24 shall include in the base for the collection rates:

25 (a) All charges for the disposal of solid waste at the facility  
26 or facilities designated by a local jurisdiction under a local  
27 comprehensive solid waste management plan or ordinance; (~~and~~)

28 (b) All known and measurable costs related to implementation of  
29 the approved county or city comprehensive solid waste management  
30 plan; and

31 (c) All costs related to the implementation of curbside recycling  
32 collection services performed by a solid waste collection company  
33 consistent with chapter 70A.--- RCW (the new chapter created in  
34 section 501 of this act).

35 (2) If a solid waste collection company files a tariff to recover  
36 the costs specified under this section, and the commission suspends  
37 the tariff, the portion of the tariff covering costs specified in  
38 this section shall be placed in effect by the commission at the  
39 request of the company on an interim basis as of the originally filed

1 effective date, subject to refund, pending the commission's final  
2 order. The commission may adopt rules to implement this section.

3 (3) This section applies to a solid waste collection company that  
4 has an affiliated interest under chapter 81.16 RCW with a facility,  
5 if the total cost of disposal, including waste transfer, transport,  
6 and disposal charges, at the facility is equal to or lower than any  
7 other reasonable and currently available option.

8 NEW SECTION. **Sec. 306.** A new section is added to chapter 81.77  
9 RCW to read as follows:

10 (1) The commission shall adopt rules to establish schedules for  
11 payments from producer responsibility organizations formed under  
12 chapter 70A.--- RCW (the new chapter created in section 501 of this  
13 act) to solid waste collection companies for full cost recovery and  
14 reimbursement mechanisms for residential recycling customers.

15 (2)(a) For solid waste collection company payment schedules, the  
16 commission shall adopt rules to ensure that solid waste collection  
17 companies maintain:

18 (i) Financial solvency; and

19 (ii) Ordinary cash flow.

20 (b) Under the rules adopted by the commission, payment schedules  
21 must be consistent with:

22 (i) Any tariffs approved by the commission;

23 (ii) Payment schedules included in comprehensive solid waste  
24 management plans prepared under RCW 70A.205.045;

25 (iii) Local service level ordinances; and

26 (iv) Other factors determined by the commission to be necessary  
27 and in the public interest.

28 (3) For residential recycling customer reimbursement, the  
29 commission shall develop rules that:

30 (a) Establish a credit mechanism for customers to be reimbursed  
31 for the full cost of curbside recycling consistent with section 116  
32 of this act; and

33 (b) Maintain existing billing practices for solid waste  
34 collection companies.

35 (4) Nothing in this section requires a solid waste collection  
36 company to issue a billing credit for curbside recycling to customers  
37 if the company has not received a payment from the producer  
38 responsibility organization sufficient to cover the cost of the  
39 credit to all customers covered by the company tariff.



1 70A.245.020, 70A.65.200, 70A.555.110, 70A.560.020, sections 123 and  
2 211 of this act, 86.16.020, 88.46.070, 90.14.130, 90.46.250,  
3 90.48.120, and 90.56.330.

4 (c) Except as provided in RCW 90.03.210(2), the issuance,  
5 modification, or termination of any permit, certificate, or license  
6 by the department or any air authority in the exercise of its  
7 jurisdiction, including the issuance or termination of a waste  
8 disposal permit, the denial of an application for a waste disposal  
9 permit, the modification of the conditions or the terms of a waste  
10 disposal permit, or a decision to approve or deny an application for  
11 a solid waste permit exemption under RCW 70A.205.260.

12 (d) Decisions of local health departments regarding the grant or  
13 denial of solid waste permits pursuant to chapter 70A.205 RCW.

14 (e) Decisions of local health departments regarding the issuance  
15 and enforcement of permits to use or dispose of biosolids under RCW  
16 70A.226.090.

17 (f) Decisions of the department regarding waste-derived  
18 fertilizer or micronutrient fertilizer under RCW 15.54.820, and  
19 decisions of the department regarding waste-derived soil amendments  
20 under RCW 70A.205.145.

21 (g) Decisions of local conservation districts related to the  
22 denial of approval or denial of certification of a dairy nutrient  
23 management plan; conditions contained in a plan; application of any  
24 dairy nutrient management practices, standards, methods, and  
25 technologies to a particular dairy farm; and failure to adhere to the  
26 plan review and approval timelines in RCW 90.64.026.

27 (h) Any other decision by the department or an air authority  
28 which pursuant to law must be decided as an adjudicative proceeding  
29 under chapter 34.05 RCW.

30 (i) Decisions of the department of natural resources, the  
31 department of fish and wildlife, and the department that are  
32 reviewable under chapter 76.09 RCW, and the department of natural  
33 resources' appeals of county, city, or town objections under RCW  
34 76.09.050(7).

35 (j) Forest health hazard orders issued by the commissioner of  
36 public lands under RCW 76.06.180.

37 (k) Decisions of the department of fish and wildlife to issue,  
38 deny, condition, or modify a hydraulic project approval permit under  
39 chapter 77.55 RCW, to issue a stop work order, to issue a notice to

1 comply, to issue a civil penalty, or to issue a notice of intent to  
2 disapprove applications.

3 (l) Decisions of the department of natural resources that are  
4 reviewable under RCW 78.44.270.

5 (m) Decisions of an authorized public entity under RCW 79.100.010  
6 to take temporary possession or custody of a vessel or to contest the  
7 amount of reimbursement owed that are reviewable by the hearings  
8 board under RCW 79.100.120.

9 (n) Decisions of the department of ecology that are appealable  
10 under RCW 70A.245.020 or section 210 of this act to set recycled  
11 minimum postconsumer content for (~~covered~~) products or to  
12 temporarily exclude types of (~~covered~~) products in plastic  
13 containers from minimum postconsumer recycled content requirements.

14 (o) Orders by the department of ecology under RCW 70A.455.080.

15 (p) Decisions by the department of ecology under section 110(5)  
16 of this act regarding a proposal by a producer responsibility  
17 organization to count materials sent to an alternative recycling  
18 facility towards recycling performance rates.

19 (2) The following hearings shall not be conducted by the hearings  
20 board:

21 (a) Hearings required by law to be conducted by the shorelines  
22 hearings board pursuant to chapter 90.58 RCW.

23 (b) Hearings conducted by the department pursuant to RCW  
24 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,  
25 70A.15.3110, and 90.44.180.

26 (c) Appeals of decisions by the department under RCW 90.03.110  
27 and 90.44.220.

28 (d) Hearings conducted by the department to adopt, modify, or  
29 repeal rules.

30 (3) Review of rules and regulations adopted by the hearings board  
31 shall be subject to review in accordance with the provisions of the  
32 administrative procedure act, chapter 34.05 RCW.

33 **Sec. 402.** RCW 43.21B.300 and 2023 c 455 s 6, 2023 c 434 s 21,  
34 and 2023 c 135 s 7 are each reenacted and amended to read as follows:

35 (1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160,  
36 70A.205.280, 70A.300.090, 70A.20.050, 70A.245.040, 70A.245.050,  
37 70A.245.070, 70A.245.080, 70A.245.130, 70A.245.140, 70A.65.200,  
38 70A.455.090, 70A.555.110, 70A.560.020, sections 123 and 211 of this  
39 act, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310,

1 90.56.330, and 90.64.102 and chapter 70A.355 RCW shall be imposed by  
2 a notice in writing, either by certified mail with return receipt  
3 requested or by personal service, to the person incurring the penalty  
4 from the department or the local air authority, describing the  
5 violation with reasonable particularity. For penalties issued by  
6 local air authorities, within 30 days after the notice is received,  
7 the person incurring the penalty may apply in writing to the  
8 authority for the remission or mitigation of the penalty. Upon  
9 receipt of the application, the authority may remit or mitigate the  
10 penalty upon whatever terms the authority in its discretion deems  
11 proper. The authority may ascertain the facts regarding all such  
12 applications in such reasonable manner and under such rules as it may  
13 deem proper and shall remit or mitigate the penalty only upon a  
14 demonstration of extraordinary circumstances such as the presence of  
15 information or factors not considered in setting the original  
16 penalty.

17 (2) Any penalty imposed under this section may be appealed to the  
18 pollution control hearings board in accordance with this chapter if  
19 the appeal is filed with the hearings board and served on the  
20 department or authority 30 days after the date of receipt by the  
21 person penalized of the notice imposing the penalty or 30 days after  
22 the date of receipt of the notice of disposition by a local air  
23 authority of the application for relief from penalty.

24 (3) A penalty shall become due and payable on the later of:

25 (a) 30 days after receipt of the notice imposing the penalty;

26 (b) 30 days after receipt of the notice of disposition by a local  
27 air authority on application for relief from penalty, if such an  
28 application is made; or

29 (c) 30 days after receipt of the notice of decision of the  
30 hearings board if the penalty is appealed.

31 (4) If the amount of any penalty is not paid to the department  
32 within 30 days after it becomes due and payable, the attorney  
33 general, upon request of the department, shall bring an action in the  
34 name of the state of Washington in the superior court of Thurston  
35 county, or of any county in which the violator does business, to  
36 recover the penalty. If the amount of the penalty is not paid to the  
37 authority within 30 days after it becomes due and payable, the  
38 authority may bring an action to recover the penalty in the superior  
39 court of the county of the authority's main office or of any county  
40 in which the violator does business. In these actions, the procedures

1 and rules of evidence shall be the same as in an ordinary civil  
2 action.

3 (5) All penalties recovered shall be paid into the state treasury  
4 and credited to the general fund except those penalties imposed  
5 pursuant to RCW 18.104.155, which shall be credited to the  
6 reclamation account as provided in RCW 18.104.155(7), RCW  
7 70A.15.3160, the disposition of which shall be governed by that  
8 provision, RCW 70A.245.040 (~~and~~), 70A.245.050, and section 211 of  
9 this act, which shall be credited to the recycling enhancement  
10 account created in RCW 70A.245.100, RCW 70A.300.090, 70A.555.110, and  
11 70A.560.020, which shall be credited to the model toxics control  
12 operating account created in RCW 70A.305.180, RCW 70A.65.200, which  
13 shall be credited to the climate investment account created in RCW  
14 70A.65.250, RCW 90.56.330, which shall be credited to the coastal  
15 protection fund created by RCW 90.48.390, (~~and~~) RCW 70A.355.070,  
16 which shall be credited to the underground storage tank account  
17 created by RCW 70A.355.090, and chapter 70A.--- RCW (the new chapter  
18 created in section 501 of this act), which shall be credited to the  
19 recycling enhancement account created in RCW 70A.245.100.

20 NEW SECTION. Sec. 403. AUTHORITY OF UTILITIES AND  
21 TRANSPORTATION COMMISSION. Nothing in this chapter or chapter 70A.---  
22 RCW (the new chapter created in section 502 of this act) changes or  
23 limits the authority of the Washington utilities and transportation  
24 commission to regulate collection of solid waste, including curbside  
25 collection of residential recyclable materials, in accordance with  
26 chapter 81.77 RCW.

27 NEW SECTION. Sec. 404. LITTER TAX STUDY. (1) In consultation  
28 with producer responsibility organizations registered with the  
29 department of ecology under chapter 70A.--- RCW (the new chapter  
30 created in section 501 of this act), the department of ecology and  
31 the department of revenue must study:

32 (a) The impacts of producer requirements under chapter 70A.---  
33 RCW (the new chapter created in section 501 of this act) on the  
34 litter rates of covered products under that chapter; and

35 (b) Possible improvements to the structure of the litter tax  
36 under chapter 82.19 RCW including administration, compliance, and  
37 distribution of the tax and application of the tax to certain  
38 products, for achieving the purpose of chapter 82.19 RCW. The

1 improvements to the structure of the litter tax to be studied under  
2 this section may not include an increase in the rate of the litter  
3 tax under chapter 82.19 RCW or an expansion of the types of covered  
4 products under chapter 70A.--- RCW (the new chapter created in  
5 section 501 of this act) that are subject to the litter tax.

6 (2) By January 1, 2029, the department of ecology, in  
7 consultation with the department of revenue, must provide  
8 recommendations to the appropriate committees of the legislature on:

9 (a) Applicability of the litter tax to covered products, based on  
10 whether the purpose of the litter tax under chapter 82.19 RCW is  
11 being achieved for those products by the requirements of producers  
12 under chapter 70A.--- RCW (the new chapter created in section 501 of  
13 this act); and

14 (b) Improvements to the structure of the litter tax for meeting  
15 the purposes of chapter 82.19 RCW.

16 (3) This section expires July 1, 2029.

17 NEW SECTION. **Sec. 405.** RCW 70A.245.110 (Recycled content  
18 account) and 2021 c 313 s 14 are each repealed, effective July 1,  
19 2029.

20 NEW SECTION. **Sec. 406.** If any provision of this act or its  
21 application to any person or circumstance is held invalid, the  
22 remainder of the act or the application of the provision to other  
23 persons or circumstances is not affected.

24 **Part Five**

25 **Codification Directives**

26 NEW SECTION. **Sec. 501.** Sections 101 through 128, 403, and 404  
27 of this act constitute a new chapter in Title 70A RCW.

28 NEW SECTION. **Sec. 502.** Sections 201 through 212 of this act  
29 constitute a new chapter in Title 70A RCW.

--- END ---