
SECOND SUBSTITUTE HOUSE BILL 2049

State of Washington

68th Legislature

2024 Regular Session

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

READ FIRST TIME 02/05/24.

1 AN ACT Relating to improving Washington's solid waste management
2 outcomes; amending RCW 70A.245.010, 70A.245.020, 70A.245.030,
3 70A.245.040, 70A.245.090, 70A.245.100, 70A.245.120, 70A.245.060,
4 70A.205.005, 70A.205.010, 70A.205.045, 81.77.030, 81.77.160, and
5 81.77.185; reenacting and amending RCW 43.21B.110 and 43.21B.300;
6 adding a new section to chapter 70A.245 RCW; adding a new section to
7 chapter 81.77 RCW; creating a new section; adding new chapters to
8 Title 70A RCW; repealing RCW 70A.245.110; prescribing penalties;
9 providing an effective date; 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) The legislature also finds that the department of ecology was
33 directed in 2023, through an independent consultant, to study and
34 develop recycling, reuse, and source reduction performance targets
35 for consumer packaging and paper materials. The targets study
36 concluded that the highest achievable recycling performance rates
37 could be achieved by a comprehensive policy scenario in which an
38 extended producer responsibility program and postconsumer recycled
39 content rate targets, as established in parts I and II of this act,
40 are combined with a deposit return system for beverage containers.

1 (7) In addition, the legislature finds extended producer
2 responsibility policies designed to cover all consumer packaging and
3 paper materials offer the potential for greater economies of scale
4 and operational efficiencies than could be achieved under a policy
5 applied only to a subset of materials.

6 (8) It is the intent of the legislature to require extended
7 producer responsibility programs for consumer packaging and paper
8 products be implemented in a manner that involves producers in
9 material management from design concept to end of life. These
10 programs incentivize innovation and research to develop new and more
11 efficient recycling and reuse technologies and minimize negative
12 environmental impacts of the packaging and paper products.

13 (9) It is intended that these programs be responsibly planned and
14 funded, so that covered products are handled and accounted for from
15 the point of collection through the final destination in a way that
16 minimizes negative impacts to the environment and minimizes risks to
17 public health and worker health and safety. It is also intended that
18 these programs build and expand on the existing waste and recycling
19 system's infrastructure and reliance on the authority of local
20 governments and the utilities and transportation commission in solid
21 waste management.

22 (10) It is the intent of the legislature that producers increase
23 the use of postconsumer recycled content in their products, to
24 achieve the goals in RCW 70A.520.010(2) and to create strong markets
25 for recycled materials and achieve environmental benefits.

26 (11) It is the intent of the legislature that, through design and
27 innovation, producers will reduce the use and negative climate impact
28 of consumer packaging and paper products and increase the use of
29 postconsumer recycled content.

30 (12) Finally, it is the intent of the legislature that Washington
31 should maintain the successful public-private partnership between
32 state, local government, and solid waste and recycling service
33 providers. The legislature does not intend to diminish or displace
34 the primary role of the utilities and transportation commission and
35 local governments in regulating or contracting directly with service
36 providers for the curbside collection of residential recyclables.
37 Local governments maintain their existing authority to collect,
38 contract for collection with solid waste and recycling service
39 providers, or defer to solid waste collection services regulated by
40 the utilities and transportation commission.

1 NEW SECTION. **Sec. 102.** DEFINITIONS. The definitions in this
2 section apply throughout this chapter unless the context clearly
3 requires otherwise.

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

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

9 (3) "Compostable" means a product that is capable of undergoing
10 aerobic biological decomposition in a composting system, that results
11 in the material being broken down primarily into carbon dioxide,
12 water, inorganic compounds, and biomass, and is in compliance with
13 the requirements for a product labeled as compostable under chapter
14 70A.455 RCW.

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

18 (5) "Consumer" means a person who purchases or receives a covered
19 product and is the intended end user or recipient of the covered
20 product.

21 (6) "Contamination" means:

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

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

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

30 (b) "Covered product" does not include covered products for which
31 the producer demonstrates to the department that the covered product
32 meets all of the following criteria:

33 (i) The covered product is not collected through a residential
34 recycling collection service;

35 (ii) The covered product is recycled at a responsible end market;

36 (iii) The covered product is intended to be used and collected
37 within a commercial setting; and

38 (iv) (A) The producer annually demonstrates to the department that
39 the covered product has had a state recycling rate of 65 percent for
40 three consecutive years, until December 31, 2028. Beginning January

1 1, 2029, the producer must demonstrate to the department every two
2 years that the covered product has had a state recycling rate of at
3 least 70 percent annually; or

4 (B) The producer annually demonstrates to the department that the
5 covered product is directly managed by the producer and has had a
6 reuse or recycling rate of 65 percent for three consecutive years,
7 until December 31, 2028. Beginning January 1, 2029, the producer must
8 demonstrate to the department every two years that the covered
9 product controlled by the producer has had a reuse or recycling rate
10 of at least 70 percent annually.

11 (c) If only a portion of the covered product sold in or into the
12 state by a producer meets the criteria of (b)(i) of this subsection,
13 only the portion of the covered product that meets that criteria is
14 exempt from this chapter and any portion that does not meet the
15 criteria is a covered product for purposes of this chapter.

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

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

19 (b) Has a global gross revenue of less than \$5,000,000, not
20 including on-premises alcohol sales, for the most recent fiscal year
21 of the organization.

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

23 (10) "Designated for collection" means the covered products that
24 are a material on the uniform statewide collection list for curbside
25 recycling programs or otherwise identified as suitable for recycling
26 collection in this state by the department as described in section
27 107 of this act.

28 (11) "Eliminate" or "elimination," with respect to source
29 reduction, means the removal of a component from a covered material.

30 (12) "Final disposition" means the point at which a covered
31 product:

32 (a) Becomes a reused material;

33 (b) Becomes a recycled material; or

34 (c) Is delivered to a disposal site, as defined in RCW
35 70A.205.015.

36 (13) "Government entity" means any:

37 (a) County, city, town, or other local government, including any
38 municipal corporation, quasi-municipal corporation, or special
39 purpose district, or any office, department, division, bureau, board,
40 commission, or agency thereof, or other local public agency;

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

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

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

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

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

11 (16) "Overburdened communities" means the overburdened
12 communities identified and prioritized by the department under RCW
13 70A.02.050(1)(a).

14 (17)(a) "Packaging" means a material, substance, or object that
15 is:

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

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

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

21 (iv) Supplied at the point of sale to facilitate the delivery of
22 the item; or

23 (v) Supplied to or purchased by consumers expressly for the
24 purpose of facilitating food or beverage consumption that is
25 ordinarily discarded by consumers after a single use or short-term
26 use.

27 (b) "Packaging" does not include:

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

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

38 (iii) Products excluded temporarily under section 127 of this
39 act;

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

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

12 (vi) Packaging for products that are regulated as a medical
13 device, dietary supplement, or drug by the United States food and
14 drug administration under the federal food, drug, and cosmetic act,
15 21 U.S.C. Sec. 321 et seq. or products that are regulated as a
16 biologic or vaccine by the federal food and drug administration under
17 the public health service act, 42 U.S.C. Sec. 201 et seq.;

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

21 (viii) Qualifying beverage containers subject to a refund value,
22 if applicable, and for which a distributor responsibility
23 organization or other entity responsible for implementing the program
24 has submitted and received approval from the department for a
25 coordination plan that describes how the qualifying beverage
26 containers will be managed in a manner that does not conflict with
27 plans implemented under this chapter.

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

32 (19) "Paper product" means paper sold or supplied, including
33 flyers, brochures, booklets, catalogs, magazines, copy paper,
34 printing paper, and all other paper materials except for: (a) Bound
35 books; (b) conservation grade and archival grade paper; (c)
36 newspapers; (d) paper designed for use in building construction; and
37 (e) paper products that, by any common and foreseeable use, could
38 reasonably be anticipated to become unsafe or unsanitary to handle.

39 (20) "Plan" means description of the approach and activities
40 developed by a producer responsibility organization to fulfill the

1 requirements and to carry out the responsibilities of producers under
2 this chapter.

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

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

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

10 (A) If the item is sold in or with packaging under the brand of
11 the item manufacturer or is sold in packaging that lacks
12 identification of a brand, the producer is the person that
13 manufactures the item;

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

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

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

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

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

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

34 (B) For packaging used to ship the item to a consumer, the
35 producer of the packaging is the person that packages the item to be
36 shipped to the consumer.

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

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

3 (v) For paper products not described in (a)(iv) of this
4 subsection:

5 (A) If the paper product is sold under the manufacturer's own
6 brand, the producer is the person that manufactures the paper
7 product;

8 (B) If there is no person to which (a)(v)(A) of this subsection
9 applies, the producer is the person that is the owner or licensee of
10 a brand or trademark under which the paper product is used in a
11 commercial enterprise, sold, offered for sale, or distributed in or
12 into this state, whether or not the trademark is registered in this
13 state;

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

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

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

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

28 (A) Where another person has mutually signed an agreement with a
29 producer as defined in (a)(i) through (v) of this subsection that
30 contractually assigns responsibility to the person as the producer,
31 and the person has joined a registered producer responsibility
32 organization as the responsible producer for that covered product
33 under this chapter. In the event that another person is assigned
34 responsibility as the producer under this subsection, the producer
35 under (a)(i) through (v) of this subsection must provide written
36 certification of that contractual agreement to the producer
37 responsibility organization; and

38 (B) If the producer described in (a)(i) through (v) of this
39 subsection is a business operated wholly or in part as a franchise,

1 the producer is the franchisor, if that franchisor has franchisees
2 that have a commercial presence within the state.

3 (b) "Producer" does not include:

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

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

8 (iii) De minimis producers.

9 (23) "Producer responsibility organization" means:

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

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

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

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

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

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

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

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

39 (27)(a) "Recycled material" means material derived from covered
40 products that is reprocessed into products or delivered as feedstocks

1 or commodities to a responsible end market for use in the production
2 of new products whether for the original or another purpose.

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

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

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

10 (b) Minimizes risks to public health and worker health and
11 safety.

12 (29) "Responsible management" means the handling, tracking, and
13 disposition of covered products from the point of collection through
14 the final destination of the collected material in a way that
15 minimizes negative impacts to the environment and minimizes risks to
16 public health and worker health and safety.

17 (30) "Responsible producer" means a producer that is not a de
18 minimis producer.

19 (31) "Retail establishment" includes any person, corporation,
20 partnership, business, facility, vendor, organization, or individual
21 that sells or provides merchandise, goods, or materials directly to a
22 customer.

23 (32) "Reusable" means:

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

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

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

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

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

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

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

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

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

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

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

11 (b) Prevent or, if not preventable, minimize environmental harms
12 or risks; and

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

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

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

27 (b) Until the conclusion of the initial plan implementation
28 period as provided under section 108 of this act, the department must
29 only accept the registration of a single producer responsibility
30 organization, other than any producers that register individually as
31 a producer responsibility organization. Until the conclusion of the
32 initial plan implementation period, producers of covered products
33 must either join the producer responsibility organization or register
34 individually as a producer responsibility organization for purposes
35 of compliance under this section. If registrations for more than one
36 producer responsibility organization are submitted to the department
37 by March 1, 2025, not counting registrations submitted by individual
38 producers, the department must determine which proposed producer

1 responsibility organization can most effectively implement this
2 chapter.

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

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

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

26 (a) (i) A list of all their member producers and their brands
27 associated with covered products, and members of the board of
28 directors;

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

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

37 (i) The weight, by material category, of covered products
38 supplied or sold into the state to consumers. The weight of any
39 covered products that are reusable or compostable must each be

1 reported separately from the weight of other types of covered
2 products;

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

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

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

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

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

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

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

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

37 (ii) Submit the annual postconsumer recycled content report to
38 the department in July of each year beginning in 2026 for the prior
39 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) A producer, producer responsibility organization, or other
17 entity in the distribution chain of covered products is not exempted
18 from state or federal laws prohibiting actions that are considered to
19 be a restraint of trade, a conspiracy, or are otherwise deemed
20 unlawful activities in violation of federal or state antitrust laws.

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

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

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

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

37 (iii) Until rules are adopted under (a)(iv) of this subsection,
38 issue a general order to all registered producer responsibility

1 organizations. The department must equitably determine fee amounts
2 for producer responsibility organizations;

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

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

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

15 (c) The department must:

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

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

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

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

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

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

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

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

1 by a producer responsibility organization does not comply, the
2 department may use the enforcement powers specified in section 123 of
3 this act.

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

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

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

14 (b) Review within 120 days of receipt of a complete annual
15 report;

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

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

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

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

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

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

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

36 (b) (i) Are home to producers that supply, or have the potential
37 to supply, significant quantities of covered products to Washington
38 markets; or

39 (ii) To which producers in Washington supply, or have the
40 potential to supply, significant quantities of covered products.

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

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

5 (b) Identifies any noncompliant producers; and

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

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

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

14 NEW SECTION. **Sec. 105.** STATEWIDE NEEDS ASSESSMENT. (1) To

15 inform program implementation, the department must conduct a
16 statewide needs assessment that must be:

17 (a) Carried out by a third-party consultant selected by the
18 department; and

19 (b) Funded through payments or reimbursements collected from
20 producer responsibility organizations.

21 (2) The statewide needs assessment must:

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

25 (b) Use information and recommendations from the department's
26 2020 plastic packaging study reports;

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

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

33 (e) Evaluate what new or expanded services and infrastructure are
34 needed in each county and city planning under chapter 70A.205 RCW to
35 meet the requirements of this chapter, including the convenience
36 standards established under section 113 of this act and what the
37 anticipated costs are for those additional services and
38 infrastructure;

39 (f) Reference local solid waste management plans;

- 1 (g) Evaluate what additional actions and investments are needed
2 to meet the requirements of this chapter;
- 3 (h) Evaluate system needs and opportunities to facilitate
4 recycling of covered products back into covered products and
5 encourage development of circular economic activity in the state and
6 region;
- 7 (i) Evaluate how the state's recycling system can be managed in a
8 socially just manner. This evaluation must include meaningful
9 consultation with overburdened communities and vulnerable populations
10 and include an assessment and recommendations on the following:
- 11 (i) Material recovery facility worker conditions, wages, and
12 benefits;
- 13 (ii) The availability of opportunities in the recycling system
14 for women and minority individuals;
- 15 (iii) Activities that disproportionately negatively impact any
16 community and in particular overburdened communities and vulnerable
17 populations; and
- 18 (iv) The sufficiency of recycling education and outreach programs
19 relative to desired socially just management outcomes;
- 20 (j) Compile information from available data sources on the
21 presence of toxic substances in covered products and their potential
22 negative impacts on reuse, recycling, and composting systems. The
23 information compiled is intended to inform the development of eco-
24 modulation factors by a producer responsibility organization that
25 incentivize the reduction of toxic substances that have potentially
26 negative impacts when covered products are managed through reuse,
27 recycling, and home and commercial composting systems;
- 28 (k) Evaluate the extent to which covered products contribute to
29 litter and marine debris for the purpose of informing how a producer
30 responsibility organization implementing a plan can support litter
31 and marine debris prevention as it relates to activities required
32 under this chapter. The assessment should draw on available data,
33 assess gaps, and identify strategies for improving prevention and
34 cleanup of litter and marine debris from covered products;
- 35 (l) Evaluate the actions and investments that will be needed by
36 jurisdictions planning under chapter 70A.205 RCW to update their
37 plans to implement this act; and
- 38 (m) Any other information the department determines necessary to
39 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 and an
26 evaluation of alternative recycling technologies that meet the
27 criteria of section 110(5) of this act. These additional locations
28 may not include public places and official gatherings at which a
29 local government does not provide solid waste services or retail
30 establishments.

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

37 NEW SECTION. **Sec. 106.** PLAN PARTICIPATION OBLIGATION—
38 STAKEHOLDER CONSULTATION FOR PLAN. (1) Each producer of covered
39 products must participate in, implement, and fund a producer

1 responsibility organization plan approved by the department,
2 consistent with the timelines established in sections 103 and 108 of
3 this act, and in accordance with the funding requirements established
4 in section 112 of this act.

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

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

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

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

32 (c) An individualized consultation by the producer responsibility
33 organization, after the completion of the needs assessment in section
34 105 of this act, with each county and city planning under chapter
35 70A.205 RCW, regarding the portions of the plan relevant to that city
36 or county.

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

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

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

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

10 (i) Materials determined to be suitable for residential curbside
11 collection, whether in a comingled or in a separate container;

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

13 (iii) Materials for alternative collection only.

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

16 (i) The stability, maturity, accessibility, and viability of
17 responsible end markets;

18 (ii) Environmental health and safety considerations;

19 (iii) The anticipated yield loss for the material during the
20 recycling process;

21 (iv) The material's compatibility with existing recycling
22 infrastructure;

23 (v) The amount of the material available;

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

25 (vii) Contamination;

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

28 (ix) Economic factors;

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

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

31 (c)(i) Except as described in (c)(ii) of this subsection, a
32 material that is not identified as suitable for residential curbside
33 collection may not be collected as part of a curbside recycling
34 program.

35 (ii) A covered product that is not identified as suitable for
36 residential curbside collection may be temporarily collected as part
37 of a curbside recycling program and qualify for reimbursement if:

38 (A) The covered product is collected as part of a pilot program
39 agreed to by the service provider, the government entity under whose

1 authority the service is provided, and the producer responsibility
2 organization;

3 (B) The pilot program is of limited duration; and

4 (C) The pilot program is conducted in a limited area.

5 (2) A producer responsibility organization may propose a covered
6 product for addition to the list of materials for uniform statewide
7 recycling collection as part of a producer responsibility
8 organization plan. In considering the addition of a covered product
9 proposed by a producer responsibility organization, the department
10 shall consider the same criteria as those established under
11 subsection (1)(b) of this section.

12 (3) The department must by rule determine the plan contents
13 required to be included in a producer responsibility organization
14 plan. Plan contents must address all aspects of responsibilities
15 assigned to producers and producer responsibility organizations in
16 this chapter and how the producer responsibility organization will
17 carry out activities to fulfill such responsibilities and must
18 provide information about services and other relevant details for
19 each county and city planning under chapter 70A.205 RCW.

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

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

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

25 (c) If the performance rates set in a producer responsibility
26 organization plan have not been met as of the time of plan update,
27 the producer responsibility organization must arrange for an
28 independent evaluation to be conducted of the producer responsibility
29 organization's efforts to implement the plan. The evaluation must
30 provide information for the producer responsibility organization to
31 use to target and improve program outcomes relative to the approved
32 performance rates. The evaluation must be submitted to the department
33 with an updated plan.

34 (d) A producer responsibility organization must carry out the
35 consultation process established in section 106 of this act prior to
36 the submission of each plan and plan update. The consultation process
37 established in section 106 of this act is not required to be carried
38 out by a producer responsibility organization that is submitting a
39 revised plan:

1 (i) In response to an order from the department; or
2 (ii) Subsequent to a letter disapproving of a plan submission by
3 the producer responsibility organization and for which the original
4 plan submitted by the producer responsibility organization had been
5 subject to the consultation process required in section 106 of this
6 act.

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

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

12 (i) The program and activities to implement the plan fail to
13 achieve the performance rates set in producer responsibility
14 organization plans as described in section 111 of this act or
15 otherwise fail to achieve significant requirements under this
16 chapter;

17 (ii) Additional producer responsibility organizations register
18 with the department or receive approval from the department to begin
19 implementing a plan; or

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

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

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

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

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

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

34 (2) The contingency plan required in this section must be
35 submitted to the department as a component of the producer
36 responsibility organization's initial plan submitted to the
37 department under section 103(7) of this act. The department may
38 require a producer responsibility organization to update the

1 contingency plan required under this section coincident with any plan
2 update under section 108 of this act.

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

7 NEW SECTION. **Sec. 110.** COLLECTION AND MANAGEMENT. (1) Producer
8 responsibility organizations, government entities, and service
9 providers implementing the program must manage covered products in a
10 manner consistent with the state's solid waste management hierarchy
11 established in RCW 70A.205.005.

12 (2) Covered products collected under this chapter must be
13 responsibly managed at facilities operating with human health and
14 environmental protection standards that are broadly equivalent to or
15 better than those required in the United States and other countries
16 that are members of the organization for economic cooperation and
17 development.

18 (3) (a) Owners or operators of a material recovery facility that
19 manages covered products under this chapter must ensure that workers
20 at the facility are paid not less than the prevailing rate of wage
21 for the same trade or occupation, as defined by the department of
22 labor and industries. "Prevailing rate of wage" includes the hourly
23 wage, usual benefits, and overtime paid in the locality as defined in
24 RCW 39.12.010.

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

30 (4) Producer responsibility organizations implementing a plan
31 must include measures to:

32 (a) Track, verify, and publicly report that the responsible
33 management of covered products collected under this chapter is
34 maintained and that recycled materials are delivered to a responsible
35 end market;

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

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

1 (d) Prioritize agreements with material recovery facilities
2 handling covered products regarding long-term contracts and other
3 purchase agreements based on fair market pricing for commodities of
4 comparable quality;

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

9 (ii) Describe whether the material recovery facilities or other
10 processing facilities were preexisting, planned, or under
11 construction as of plan approval.

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

21 (b) The department must establish a process by which a producer
22 responsibility organization may propose to count towards recycling
23 performance rates materials sent to a facility that uses an
24 alternative recycling process.

25 (c) The department may only approve the producer responsibility
26 organization's proposal to count towards recycling performance rates
27 the materials sent to a facility that uses an alternative recycling
28 process if the department determines that the alternative process
29 meets all of the following criteria:

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

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

37 (A) Release or generation of air and water pollutants or any
38 hazardous pollutants;

39 (B) Generation of hazardous waste;

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

1 (D) Environmental impacts on overburdened communities and
2 vulnerable populations;

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

5 (F) Public health impacts; and

6 (G) Capture and recycling rates;

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

9 (iv) Meets an unmet need in the state that will result in meeting
10 recycling performance targets, including creating new recycling
11 markets for materials currently disposed of in landfills or
12 incinerated;

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

14 (vi) Those other environmental impacts as determined by the
15 department.

16 (d) (i) In making its determination under (c) of this subsection,
17 the department must take into consideration any local, state, or
18 federal environmental permitting requirements that govern the
19 operation of an alternative recycling process that reduces air and
20 water pollutants or the generation of hazardous waste or pollutants.
21 The department must also take into consideration whether the
22 alternative process produces food-grade or pharmaceutical grade
23 recycled content.

24 (ii) The department must publish a determination on the producer
25 responsibility organization's proposal, detailing why it was approved
26 or denied and how it measured against the criteria listed in (c) of
27 this subsection. The department must also conduct a public review
28 process for at least 60 days.

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

31 (e) The department must, no more frequently than every five
32 years, require the producer responsibility organization to provide
33 any updated information deemed necessary that demonstrates that the
34 alternative process is continuing to meet the requirements of this
35 section. If the facility fails to meet the requirements of this
36 section, the department shall prohibit the producer responsibility
37 organization from counting material sent to the alternative recycling
38 facility towards recycling performance rates.

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

4 (6)(a) Material recovery facilities receiving covered products
5 from government entities or private service providers collected
6 through activities undertaken in accordance with this chapter must
7 measure and report annually to the department by commodity type and
8 material category, in a form and format approved by the department,
9 on the following parameters associated with covered products received
10 and processed:

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

12 (ii) Inbound material quality and contamination;

13 (iii) Outbound material quality and contamination;

14 (iv) Outbound material tons and end markets by commodity type,
15 including whether the end markets are domestic, export to
16 organization for economic cooperation and development countries, or
17 export to facilities in other countries that meet organization for
18 economic cooperation and development operating standards;

19 (v) Management of contaminants and residue to avoid negative
20 impacts on other waste streams or facilities;

21 (vi) Residuals, including residue rate, composition, and disposal
22 location;

23 (vii) Any violations of existing permits, regarding emissions to
24 air and water, and the status of those permit violations; and

25 (viii) Labor metrics including wages, unions, and workforce
26 demographics.

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

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

36 (7) Material recovery facilities and other processing facilities
37 handling materials under this chapter shall prioritize agreements
38 with and on behalf of producers or producer responsibility
39 organizations regarding long-term contracts and other purchase

1 agreements based on fair market pricing for commodities of comparable
2 quality.

3 NEW SECTION. **Sec. 111.** PERFORMANCE RATES. (1) Any producer
4 responsibility organization plan submitted to the department must
5 include performance rates for covered products reported by the
6 producer responsibility organization as supplied into the state,
7 taking into account the findings of the *December 2023 Washington*
8 *Recycling, Reuse, and Source Reduction Target Study and Community*
9 *Input Process*, statewide needs assessment, and additional relevant
10 data. The rates submitted by a producer responsibility organization
11 must be achieved by the end of the plan implementation period.

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

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

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

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

21 (iv) A source reduction rate to be achieved by the elimination of
22 covered product components or a reduction in the weight of covered
23 products, with at least 25 percent of the total rate being achieved
24 by solely eliminating plastic components. Source reduction to achieve
25 this rate cannot be achieved by shifting the material to plastic.
26 Producers that make reductions in plastic components by replacement
27 with other materials must not be required by a producer
28 responsibility organization to reduce the weight of the replacement
29 materials. The elimination of covered product components or a
30 reduction in weight must not render the covered material
31 nonrecyclable or be detrimental to recycling. This source reduction
32 rate must calculate the amount of covered material the producers have
33 source reduced from a baseline year of 2023, and the producer
34 responsibility organization must provide credit to individual
35 producers for source reductions achieved since January 1, 2013. If
36 the elimination of covered product components or a reduction in the
37 weight of covered products is not possible by an individual producer,
38 for an individual covered product or specific covered material and
39 product type combination, due to technological infeasibility or

1 conflict with federal law or regulations, that covered product or
2 products must be excluded from the baseline calculation under this
3 subsection.

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

8 (c) Proposed rates must adhere to the performance rate
9 calculation methodology established in subsections (2) through (4) of
10 this section.

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

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

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

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

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

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

28 (3)(a) A producer responsibility organization must develop a
29 system to collect fees from participating producers to cover the
30 costs of plan implementation. To minimize the administrative and
31 reporting costs of the producers and the organization, the fee system
32 must include a category of small producers, determined by weight of
33 covered products sold into the state, for whom no fees are charged by
34 the producer responsibility organization.

35 (b) The fee system may include:

36 (i) Additional charges applied specifically to producers of
37 postconsumer recycled content products covered by the requirements of
38 chapter 70A.--- RCW (the new chapter created in section 502 of this
39 act), in an amount roughly equivalent to fully cover the producer

1 responsibility organization's costs of implementing its duties under
2 chapter 70A.--- RCW (the new chapter created in section 502 of this
3 act), including funding the oversight of the department; and

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

5 (c) A producer responsibility organization shall allow producers
6 of covered products that are magazines to satisfy their obligations
7 under this section by providing advertisement or publication
8 supporting the education and outreach activities required under
9 section 118 of this act in their magazines, or on their websites in
10 lieu of program fees as long as the value of the advertisement is
11 equivalent to the estimated cost of managing the covered products
12 that are magazines, which are to be determined as described in
13 subsection (4) of this section. The producer responsibility
14 organization may consider the in-state reach of the advertising when
15 determining the value of the advertising.

16 (4) The fee system must include a base rate designed to
17 differentiate between types of covered products and the materials and
18 formats that comprise these covered products. Any membership fees
19 charged for different covered product types, materials, and formats
20 must be proportional to the costs to the producer responsibility
21 organization for that covered product type, material, or format. In
22 establishing the base rate, a producer responsibility organization
23 must consider the following factors:

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

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

29 (c) The commodity value of each material category as a recycled
30 material.

31 (5)(a) In addition to the base rate charged under subsection (4)
32 of this section, the fee system must use eco-modulation factors to
33 incentivize the use of packaging design attributes that reduce the
34 negative environmental impacts of covered products. The factors must
35 include both positive incentives, including discounted fees, and
36 disincentives, including increased fees. Examples of activities that
37 a fee system may include to satisfy the requirement to use eco-
38 modulation factors include, but are not limited to:

39 (i) Encourage designs that facilitate and improve infrastructure
40 and systems for reuse, recycling, and home and industrial composting,

1 and that achieve reuse, recycling, and home and industrial
2 composting;

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

4 (iii) Encourage designs that reduce the amount of packaging
5 material used;

6 (iv) Discourage the use of problematic or difficult to recycle
7 materials that increase system costs of managing covered products;
8 and

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

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

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

21 (c) Fees collected under this fee system must be used exclusively
22 for plan implementation and other activities required under this
23 chapter and chapter 70A.--- RCW (the new chapter created in section
24 502 of this act).

25 (6) If more than one producer responsibility organization is
26 registered within the state, each producer responsibility
27 organization must coordinate with other producer responsibility
28 organizations to provide reimbursement and ensure that government
29 entities and service providers are reimbursed for recycling services
30 as required under this chapter, and to ensure that covered products
31 are not reported as supplied or managed by more than one producer
32 responsibility organization.

33 (7) (a) Each producer responsibility organization must fund,
34 through a fee paid to the department, the costs to the department to
35 establish and implement a packaging financial assistance program to
36 reduce the negative environmental impacts of covered products through
37 reuse. The fee charged to any producer responsibility organization
38 may not exceed:

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

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

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

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

13 (i) Government entities;

14 (ii) Tribal governments;

15 (iii) Nonprofit organizations; and

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

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

21 (i) The environmental benefits of the program;

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

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

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

25 (v) The needs of economically distressed or overburdened
26 communities.

27 NEW SECTION. **Sec. 113.** CONVENIENCE STANDARDS. (1) In every
28 jurisdiction in which covered products are sold or supplied to
29 consumers, a producer responsibility organization must fund
30 activities to make convenient collection services available for the
31 lists of covered products designated for collection by the department
32 as described in section 107 of this act. Convenient collection
33 services must be available to residents as follows:

34 (a) Curbside collection of materials identified as suitable for
35 residential curbside collection must be provided to residents in
36 single-family and multifamily residences wherever curbside garbage
37 collection services are provided to these entities, except where a
38 county has adopted an ordinance that designates that these materials

1 must be collected exclusively through drop-off locations as allowed
2 in section 114 of this act.

3 (b) Collection of materials identified as suitable for drop-off
4 collection must be provided through free and equitable access to
5 permanent collection facilities that are located, at minimum, at each
6 solid waste transfer, processing, or disposal site, or other drop-off
7 location, or a location demonstrated to the department to be of equal
8 convenience, that existed prior to the effective date of this
9 section.

10 (c) Collection of materials identified as suitable for
11 alternative collection only must be provided through collection
12 services that provide free and equitable access to residents at a
13 minimum:

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

17 (ii) In communities that are not covered by a collection location
18 described in (c)(i) of this subsection. A producer responsibility
19 organization, after soliciting and accommodating input from the
20 department, the relevant government entity, and the local community,
21 must determine a reasonable number and location of additional drop-
22 off locations or frequency and location of collection events or
23 services to be provided in underserved areas. A producer
24 responsibility organization must give special consideration for
25 providing opportunities to island and geographically isolated
26 populations.

27 (d) A retail establishment may choose to serve as a drop-off
28 location or as the site of a collection event, or both, through
29 mutual agreement with a producer responsibility organization, but
30 nothing in this chapter requires a retail establishment to serve as a
31 drop-off location or site of a collection event.

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

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

39 (ii) At additional locations as determined by the producer
40 responsibility organization, after considering the recommendations of

1 the statewide needs assessment in section 105 of this act and
2 stakeholder consultation in section 106 of this act. Collection in
3 additional locations is subject to mutual agreement by the producer
4 responsibility organization and the government entity or other entity
5 responsible for the public place.

6 (2) In any jurisdiction where collection of source separated
7 recyclable materials from residences is provided by a city or town
8 under the authority of RCW 35.21.120, by a county under the authority
9 of RCW 36.58.040, or by a company that holds an applicable
10 certificate under the authority of chapter 81.77 RCW, a producer
11 responsibility organization must meet its curbside collection service
12 obligation through the curbside collection service in the
13 jurisdiction as described in section 114 of this act.

14 (3) Collection of source separated recyclable materials through
15 drop-off collection, alternative collection, and public place
16 collection must be provided in a manner consistent with the authority
17 of a city or town under RCW 35.21.120, of a county under RCW
18 36.58.040, or under chapter 81.77 RCW. A producer responsibility
19 organization shall contract with existing recycling depots or drop-
20 off center locations, including existing solid waste facilities, to
21 provide for collection of covered products designated for drop off or
22 alternate collection if the existing facility meets all of the
23 following conditions:

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

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

30 (4) Every producer responsibility organization must identify in
31 its plan and on its website, in appropriate languages, maps of each
32 area where curbside, drop-off, and alternative collection services
33 for covered products are available, a list and map of the location of
34 each permanent collection opportunity for covered products, the types
35 and a list and map of locations of alternate collection methods used,
36 and a list and map of the locations of public place collection
37 services for covered products.

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

1 (a) Obligate a county, city, or town that utilizes its contract
2 authority under RCW 35.21.120 or 36.58.040 for collection of source
3 separated recyclable materials from residents or a city or town that
4 undertakes collection of source separated recyclable materials from
5 residents to participate in a plan implemented by a producer
6 responsibility organization;

7 (b) Restrict the authority of a city under RCW 35.21.120,
8 35.21.130, and 35.21.152; or

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

10 (2) A city or town that has previously exercised authority under
11 RCW 35.21.120 or a county that has exercised authority under RCW
12 36.58.040 to contract for residential curbside recycling services,
13 where the terms of the contract are legally enforceable as of the
14 effective date of this section, and the contracted service provider
15 shall make reasonable, good faith efforts to negotiate provisions or
16 changes to contract terms consistent with the goals of this chapter,
17 limited to those that pertain to service standards for the purpose of
18 cost reimbursement as described in section 115 of this act, and that
19 do not materially affect other provisions of the contract.

20 (3)(a) A city, town, county, or other government entity may enter
21 into contractual agreements with a producer responsibility
22 organization or organizations for the purposes of reimbursement of
23 costs of services provided in accordance with the requirements of
24 this chapter.

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

28 (c)(i) A city or town that exercises authority under RCW
29 35.21.120 or a county under RCW 36.58.040 to contract for residential
30 curbside recycling services is not restricted from providing service
31 standards for curbside collection of source separated recyclable
32 materials from residences that exceeds the service standards for
33 curbside collection included in a producer responsibility
34 organization plan approved by the department, but a producer
35 responsibility organization is not obligated to reimburse costs
36 associated with the additional service standards.

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

39 (4) Consistent with RCW 81.77.020, where a city or town chooses
40 not to exercise its authority under chapter 35.21 RCW, or a county

1 chooses not to exercise its authority under chapter 36.58 RCW,
2 curbside collection of covered products designated for collection as
3 source separated recyclable materials from residences in areas
4 regulated by the utilities and transportation commission under the
5 provisions of chapter 81.77 RCW must be provided by a company that
6 holds an applicable certificate issued by the utilities and
7 transportation commission.

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

16 (6) Government entities are not obligated to provide resident
17 education and outreach under this chapter but may carry out or
18 contract for resident education and outreach consistent with producer
19 responsibility organization plan provisions under section 118 of this
20 act and be reimbursed for the costs of education and outreach
21 performed by the government entity as described in section 115 of
22 this act.

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

28 NEW SECTION. **Sec. 115.** COST REIMBURSEMENT FOR SERVICES PROVIDED
29 BY GOVERNMENT ENTITIES. (1) A producer responsibility organization
30 with covered products designated for curbside collection under its
31 plan must provide reimbursement to a government entity that chooses
32 to seek reimbursement for costs incurred in delivering curbside
33 collection services, whether these services are provided directly or
34 through a contracted service provider, or both. Costs that must be
35 reimbursed by a producer responsibility organization include, as
36 applicable, any administrative, planning, public education,
37 collection, transportation, and sorting or processing costs incurred
38 in delivering curbside collection services in accordance with the
39 requirements of this chapter. Reimbursements for curbside collection

1 services must be informed by the costs established in the statewide
2 needs assessment and included in the producer responsibility
3 organization plan approved by the department.

4 (2) If a producer responsibility organization elects to use the
5 services of a government entity for any services included in the
6 producer responsibility organization plan other than curbside
7 collection services, it must provide reimbursement to the government
8 entity. Reimbursement for any services other than curbside collection
9 services may be calculated using reimbursement rates informed by the
10 costs established in the statewide needs assessment and included in
11 the producer responsibility organization plan approved by the
12 department.

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

17 NEW SECTION. **Sec. 116.** COST REIMBURSEMENT FOR SERVICES
18 REGULATED BY THE UTILITIES AND TRANSPORTATION COMMISSION. (1) In
19 areas where collection of source separated recyclable materials from
20 residences is regulated by the utilities and transportation
21 commission under chapter 81.77 RCW, a producer responsibility
22 organization must provide reimbursement to the company granted a
23 certificate for each residential customer to whom service is
24 provided. The rate of reimbursement must be in accordance with the
25 rates approved by the commission and in accordance with rules for
26 solid waste collection company reimbursement established by the
27 commission as described in section 306 of this act, including all
28 associated taxes and fees that would be otherwise charged to
29 residential customers directly or indirectly for recycling service.

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

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

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

1 (c) Is provided in a manner consistent with the requirements of
2 chapter 70A.205 RCW for curbside collection services of source
3 separated recyclable materials from residences and with chapter 81.77
4 RCW.

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

8 NEW SECTION. **Sec. 117.** INFRASTRUCTURE INVESTMENTS. (1) Each
9 producer responsibility organization must fund and support
10 investments in infrastructure and market development in Washington
11 state as needed to achieve the convenience standards specified in
12 section 113 of this act, the management standards specified in
13 section 110 of this act, the performance rates set in producer
14 responsibility organization plans as described in section 111 of this
15 act, or to address infrastructure gaps, as identified through the
16 statewide needs assessment under section 105 of this act and through
17 the consultation process under section 106 of this act. Investments
18 in infrastructure and market development may include, but are not
19 limited to, those needed to enable reuse, recycling, or composting of
20 covered products not currently reused, recycled, or composted, such
21 as:

22 (a) Providing funding for the purchase and installation of new
23 equipment or infrastructure or for upgrades to existing equipment or
24 infrastructure to improve sorting of covered products or mitigating
25 the negative impacts of covered products to other commodities at
26 existing material recovery facilities that accept covered products;

27 (b) Capital expenditures for new technology, equipment, and
28 facilities; and

29 (c) Providing funding for the purchase and installation of new
30 equipment or infrastructure or for upgrades to existing equipment or
31 infrastructure to meet the goals of this chapter for:

32 (i) Solid waste collection companies regulated under chapter
33 81.77 RCW;

34 (ii) Providers of curbside solid waste collection services under
35 a contract with a city under chapter 35.21 RCW or a county under
36 chapter 36.58 RCW; and

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

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

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

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

11 (3) The direct or indirect receipt of funds from a producer
12 responsibility organization under this chapter does not confer any
13 inherent ownership or interest to the producer responsibility
14 organization in any asset or company to which producer responsibility
15 funds are directed and does not confer any inherent right to control
16 use of any asset or company operations.

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

22 (a) Develop and provide outreach and educational materials,
23 resources, and campaigns that encourage participation in recycling
24 collection and reuse systems and address education and engagement
25 with residents. The outreach and education materials must support
26 recycling and reuse behaviors;

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

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

35 (d) Use consistent and easy to understand messaging and education
36 statewide;

37 (e) Be conceptually, linguistically, and culturally accurate for
38 the communities served and tailored to effectively reach the state's
39 diverse populations, including through meaningful consultation with

1 overburdened communities and vulnerable populations and in
2 collaboration with youth organizations engaged in recycling
3 promotion, waste reduction, or similar activities;

4 (f) Develop education and outreach materials that are able to be
5 used by retail establishments, collectors, government entities,
6 schools, institutions, youth organizations, and nonprofit
7 organizations;

8 (g) Coordinate and fund the distribution and deployment of
9 statewide promotional campaigns developed under this section through
10 media channels that may include, but are not limited to, print
11 publications, radio, television, the internet, and online streaming
12 services;

13 (h) Establish a process for answering customer questions and
14 resolving customer concerns; and

15 (i) Evaluate the effectiveness of education and outreach efforts
16 for the purposes of making progress toward performance requirements
17 established in this chapter.

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

22 (b) All producer responsibility organizations implementing a plan
23 approved by the department must collaborate to present a consistent
24 statewide program to ensure that all state residents can easily
25 identify, understand, and access services provided by any approved
26 producer responsibility organization. The department may require
27 producer responsibility organizations to coordinate and use
28 consistent signage and consistent messaging in education and outreach
29 activities under this section.

30 NEW SECTION. **Sec. 119.** ANNUAL REPORT. (1) Beginning July 1,
31 2030, and each July 1st thereafter, a producer responsibility
32 organization must submit an annual report to the department for the
33 preceding calendar year of plan implementation.

34 (2) The annual report must include specified information related
35 to the activities and responsibilities of the producer responsibility
36 organization under this chapter, as determined by the department by
37 rule.

38 (3)(a) The annual report must include the total cost of
39 implementing the plan approved by the department, as determined by an

1 independent financial audit and performed by an independent auditor,
2 including:

3 (i) Information regarding the independently audited financial
4 statements detailing all payments received and issued by the producer
5 responsibility organization covered by the plan approved by the
6 department;

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

8 (iii) A detailed description of how the program compensates
9 government entities, private collection and transportation service
10 providers, material recovery facilities, and other approved entities
11 for services under chapter 70A.--- (the new chapter created in
12 section 502 of this act).

13 (b) Prior to the submission of the annual report, all
14 nonfinancial data and information that is material to the
15 department's review of the program's compliance with the requirements
16 of this chapter must be audited annually by a third party that is a
17 nationally or internationally recognized, independent laboratory or
18 certification body that has received ISO/IEC 17065 accreditation as
19 it existed as of January 1, 2024, or a similar accreditation as
20 determined by the department.

21 (c) Annual independent auditing and verification must:

22 (i) Include documentation of the performance rate calculations;
23 and

24 (ii) Encompass the management of materials from the point of
25 collection through processing and sale of recycled materials to
26 responsible end markets.

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

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

31 (a) Four representatives of local governments representing
32 geographic areas across the state, including two representatives of
33 counties and two representatives of cities, each with one
34 representative of urban communities and one representative of rural
35 communities;

36 (b) One representative of tribal or indigenous solid waste
37 services organizations;

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

1 (d) Two representatives of community-based organizations whose
2 mission is to serve the interests of overburdened communities and
3 vulnerable populations;

4 (e) Two representatives of environmental nonprofit organizations;

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

8 (g) Six representatives of the recycling industry, including
9 local governments' service providers, solid waste collection
10 companies or associations, material recovery facilities, or other
11 processing facilities;

12 (h) Three representatives of producers of covered products or
13 producer trade associations representing different types of covered
14 products. A member appointed to the advisory council under this
15 subsection may not be a representative or a member of the board of
16 directors of a producer responsibility organization registered with
17 the department under section 103 of this act;

18 (i) Two representatives of packaging suppliers that are not
19 producers as defined under this chapter representing different
20 material categories; and

21 (j) One representative of a retail establishment.

22 (3) Advisory councilmembers must be appointed by the director of
23 the department by January 1, 2025. In appointing members, the
24 department shall:

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

28 (b) Consider recommendations for appointments from relevant
29 represented groups or associations and from individuals interested in
30 participating on the advisory council.

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

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

37 (5)(a) The advisory council shall elect one of its members to
38 serve as chairperson and another to serve as vice chairperson, for
39 the terms and with the duties and powers necessary for the
40 performance of the functions of such offices as the advisory council

1 determines. The chairperson and vice chairperson may not both be
2 members appointed under the same subsection of subsection (2)(a)
3 through (i) of this section.

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

6 (6) The advisory council shall meet at least once every three
7 months for the first three years, at times and places specified by
8 the chairperson. The advisory council may also meet at other times
9 and places, including virtually, specified by the call of the
10 chairperson or of a majority of the councilmembers, as necessary, to
11 carry out the duties of the advisory council.

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

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

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

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

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

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

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

28 (e) Review and comment on all new and updated plans submitted by
29 a producer responsibility organization to the department, including
30 making recommendations to the department on plan approvals, as part
31 of the public comment period as established under section 104 of this
32 act;

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

36 (g) Review and comment on all annual reports submitted by
37 producer responsibility organizations to the department, including
38 making recommendations to the department regarding the need for any
39 plan amendments or other recommendations regarding program
40 activities;

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

3 (i) As part of the review of producer responsibility annual
4 reports, review the implementation by producers and producer
5 responsibility organizations of their obligations under this chapter
6 and provide comment to the department if the advisory council finds
7 that a producer or producer responsibility organization has not met
8 or is not meeting a requirement under this chapter. The advisory
9 council may submit a request to the department, stating the violation
10 and supported with documentation, to take the enforcement actions
11 specified in section 123 (1), (2), or (5) of this act.

12 (9) Prior to the submission of a plan or plan update to the
13 department, each producer responsibility organization must submit the
14 plan to the advisory council for review and comment. The producer
15 responsibility organization must address each comment and respond as
16 to whether and how each was incorporated into the plan submitted to
17 the department.

18 (10) Advisory councilmembers that are representatives of tribes
19 or tribal and indigenous services organizations or community-based
20 and environmental nonprofit organizations must, if requested, be
21 compensated and reimbursed in accordance with RCW 43.03.050,
22 43.03.060, and 43.03.220.

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

26 (a) Department resources, including staff time;

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

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

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

33 NEW SECTION. **Sec. 121.** CONFIDENTIAL INFORMATION SUBMISSION. A
34 producer responsibility organization, material recovery facility, or
35 other processing facility that submits information or records to the
36 department under this chapter or chapter 70A.--- RCW (the new chapter
37 created in section 502 of this act) may request that the information
38 or records be made available only for the confidential use of the
39 department, the director of the department, or the appropriate

1 division of the department. The director of the department must give
2 consideration to the request and if this action is not detrimental to
3 the public interest and is otherwise in accordance with the policies
4 and purposes of chapter 43.21A RCW, the director must grant the
5 request for the information to remain confidential as authorized in
6 RCW 43.21A.160.

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

11 (a) The payment of an administrative penalty levied under this
12 chapter;

13 (b) Administrative appeals of orders or penalties issued under
14 this chapter;

15 (c) Litigation between the producer responsibility organization
16 and the state;

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

21 (e) Paid advertisements related to encouraging the passage,
22 defeat, or approval, or modification of legislation that is being
23 considered during an upcoming or current legislative session or was
24 considered during the previous legislative session.

25 (2) Nothing in this section limits the authority of a producer
26 responsibility organization to collect funds, such as through a
27 special assessment, for purposes other than implementing a plan
28 required under this chapter, such as for the purposes identified in
29 subsection (1) (a) through (e) of this section.

30 NEW SECTION. **Sec. 123.** ENFORCEMENT AUTHORITY. (1) (a) The
31 department may administratively impose a civil penalty of up to
32 \$1,000 per violation per day on any producer who violates this
33 chapter or on any producer responsibility organization that violates
34 this chapter and up to \$10,000 per violation per day for the second
35 and each subsequent violation.

36 (b) For producers out of compliance with the requirements of this
37 chapter, the department shall provide written notification and offer
38 information to producers in violation of this section. For the

1 purposes of this section, written notification serves as notice of
2 the violation. The department must issue at least one notice of
3 violation by certified mail prior to assessing a penalty and the
4 department may only impose a penalty on a producer that has not met
5 the requirements of this chapter 60 days following the date the
6 written notification of the violation was sent.

7 (2) Upon the department notifying a producer responsibility
8 organization that the producer responsibility organization has not
9 met a significant requirement of this chapter or chapter 70A.--- RCW
10 (the new chapter created in section 502 of this act), the department
11 may, in addition to assessing the penalties provided in subsection
12 (1) of this section, take any combination of the following actions:

13 (a) (i) Issue corrective action orders to a producer or producer
14 responsibility organization;

15 (ii) Issue orders to a producer responsibility organization to
16 provide for the continued implementation of the program in the
17 absence of an approved plan;

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

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

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

25 (3) Prior to taking the actions described in subsection (2)(b) of
26 this section, the department must provide the producer responsibility
27 organization or the producer an opportunity to respond to or rebut
28 the written finding upon which the action is predicated.

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

33 (5) The department shall serve, or send with delivery
34 confirmation, a written warning explaining the violation to a person
35 distributing or selling covered products in or into the state of a
36 producer that is not participating in a producer responsibility
37 organization or that is not in compliance with this chapter or rules
38 adopted under this chapter.

39 (6) The department may assess a penalty on a person that
40 continues to sell or distribute covered products of a producer that

1 is not participating in an approved producer responsibility
2 organization 60 days after receipt of the written warning under
3 subsection (5) of this section. The amount of the penalty that the
4 department may assess under this subsection is twice the value of the
5 covered products sold in violation of this chapter or \$500, whichever
6 is greater. The department must waive the penalty upon verification
7 that the person has discontinued distribution or sales of the covered
8 product within 30 days of the date the penalty is assessed.

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

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

15 (9) Upon receipt of a request from the advisory council
16 established in section 120 of this act, the department must consider
17 the appropriateness of the use of enforcement authority authorized in
18 this section.

19 NEW SECTION. **Sec. 124.** TRUTH IN LABELING. (1) Beginning January
20 1, 2028, a producer may not offer for sale, sell, or distribute in or
21 into Washington, including by means of remote sale, any covered
22 product under this chapter, certified PCRC product under chapter
23 70A.245 RCW, or PCRC product under chapter 70A.--- RCW (the new
24 chapter created in section 502 of this act) that makes a deceptive or
25 misleading claim about its recyclability, percentage of recycled
26 content, or, consistent with chapter 70A.455 RCW, its ability to be
27 composted.

28 (a) A covered product, certified PCRC product, or PCRC product
29 that displays a chasing arrows symbol, a chasing arrows symbol
30 surrounding a resin identification code, or any other symbol or
31 statement indicating that it is recyclable is deemed to be deceptive
32 or misleading unless it is designated for collection by the
33 department as described in section 107 of this act.

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

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

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

1 (iii) Uses 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 (2)(a) At such time as an enforceable federal statutory or
5 regulatory standard is implemented for labeling packaging related to
6 recyclability, within 180 days the department shall review criteria
7 under this chapter with federal standards or requirements. Upon
8 completing its review, the department may adopt the federal criteria
9 in lieu of the requirements of this section.

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

13 (3) Beginning August 1, 2024, a city, town, or county may not
14 enforce an ordinance restricting the distribution or sale of covered
15 products, certified PCRC products, or PCRC products due to displaying
16 a chasing arrows symbol, a chasing arrows symbol surrounding a resin
17 identification code, or any other symbol or statement indicating that
18 it is recyclable if the covered product is, at the time that the
19 claim is made:

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

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

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

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

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

34 NEW SECTION. **Sec. 126.** ACCOUNT. The responsible packaging
35 management account is created in the custody of the state treasurer.
36 All receipts received by the department under this chapter and
37 chapter 70A.--- RCW (the new chapter created in section 502 of this
38 act), except those specified for deposit in the recycling enhancement

1 account created in RCW 70A.245.100 and those specified for deposit in
2 the packaging financial assistance account created in section 128 of
3 this act, must be deposited in the account. Only the director of the
4 department or the director's designee may authorize expenditures from
5 the account. The account is subject to the allotment procedures under
6 chapter 43.88 RCW, but an appropriation is not required for
7 expenditures. Expenditures from the account may be used by the
8 department only for implementing, administering, and enforcing the
9 requirements of this chapter and chapter 70A.--- RCW (the new chapter
10 created in section 502 of this act).

11 NEW SECTION. **Sec. 127.** PETITION FOR THE EXCLUSION OF CERTAIN
12 PRODUCTS. (1) Prior to the submission of a new or updated plan under
13 section 107 of this act, the department may review and determine for
14 the duration of the upcoming plan's period of applicability whether
15 to temporarily exclude for reasons of public health and safety from
16 the requirements of this chapter, except as provided in subsection
17 (5) of this section, packaging used to contain the following
18 categories of products, subcategories of the following categories of
19 products, or individual products that are:

20 (a) Regulated under the poison prevention packaging act of 1970;
21 and

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

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

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

35 (a) The technical feasibility of including the category of
36 product, subcategory of product, or individual product in the program
37 created by this chapter, and in recycling the packaging of the
38 product or products; and

1 (b) The progress made by producers of products, categories of
2 products, or subcategories of products in achieving the goals of this
3 chapter, including by reducing the amount of packaging used with the
4 products, increasing the recycled content of the product packaging,
5 and increasing the ability of the products' packaging to be reused or
6 recycled if appropriate.

7 (4) The petition process established in this section is distinct
8 from the processes pertaining to adjustments and exclusions to
9 postconsumer recycled content requirements in section 210 of this
10 act. A product that is temporarily excluded under this section
11 remains subject to postconsumer recycled content requirements
12 established in chapter 70A.--- RCW (the new chapter created in
13 section 502 of this act) unless a petition is separately granted by
14 the department for a product under section 210 of this act.

15 (5) The producer of a product that is temporarily excluded from
16 the requirements of this chapter under this section must report,
17 directly to the department in a form and manner prescribed by the
18 department, the information related to the temporarily excluded
19 product that is required to be reported to the department by producer
20 responsibility organizations under sections 103 and 119 of this act.

21 NEW SECTION. **Sec. 128.** PACKAGING FINANCIAL ASSISTANCE ACCOUNT.
22 The packaging financial assistance account is created in the custody
23 of the state treasurer. All receipts received by the department under
24 section 112(7) of this act must be deposited in the account. Only the
25 director of the department or the director's designee may authorize
26 expenditures from the account. The account is subject to the
27 allotment procedures under chapter 43.88 RCW, but an appropriation is
28 not required for expenditures. Expenditures from the account must be
29 used by the department only for implementing and administering the
30 packaging financial assistance program established in section 112(7)
31 of this act.

32 **Part Two**
33 **Postconsumer Recycled Content Requirements**

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

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

4 (i) Water and flavored water;

5 (ii) Beer or other malt beverages;

6 (iii) Wine;

7 (iv) Distilled spirits;

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

10 (vi) Dairy milk; and

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

12 (b) "Beverage" does not include infant formula as defined in 21
13 U.S.C. Sec. 321(z), medical food as defined in 21 U.S.C. Sec.
14 360ee(b)(3), or fortified oral nutritional supplements used for
15 persons who require supplemental or sole source nutrition to meet
16 nutritional needs due to special dietary needs directly related to
17 cancer, chronic kidney disease, diabetes, malnutrition, and failure
18 to thrive, as those terms are defined by the international
19 classification of diseases, 10th revision, or other medical
20 conditions as determined by the department.

21 (2) "Beverage manufacturing industry" means an association that
22 represents beverage producers.

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

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

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

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

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

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

37 (b) That have a global gross revenue of less than \$5,000,000, not
38 including on-premises alcohol sales, for the most recent fiscal year
39 of the organization.

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

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

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

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

11 (10) "Household cleaning and personal care product manufacturing
12 industry" means an association that represents companies that
13 manufacture household cleaning and personal care products.

14 (11) "Household cleaning products" means products labeled,
15 marketed, or otherwise indicating that the purpose of the product is
16 to clean or remove unwanted substances, such as dirt, stains, and
17 other impurities from objects, interior or exterior structures,
18 vehicles, possessions, and environments associated with a household.
19 These items include:

20 (a) Liquid soaps, laundry soaps, detergents, softeners, surface
21 polishes, and stain removers;

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

23 (c) Other products used to clean areas associated with a
24 household.

25 (12) "Licensee" means a manufacturer of a PCRC product or entity
26 who licenses a brand and manufactures a PCRC product under that
27 brand.

28 (13) "Personal care product" means a product intended or marketed
29 for use to be rubbed, poured, sprinkled, or sprayed on, introduced
30 into, or otherwise applied to the human body for cleansing,
31 beautifying, promoting attractiveness, or altering the appearance
32 including:

33 (a) Shampoo, conditioner, styling sprays and gels, and other hair
34 care products;

35 (b) Lotion, moisturizer, facial toner, and other skin care
36 products;

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

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

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

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

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

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

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

17 (iv) Paper-based beverage containers; or

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

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

24 (i) A minimum capacity of eight fluid ounces or its equivalent
25 volume;

26 (ii) A maximum capacity of five fluid gallons or its equivalent
27 volume;

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (i) Household cleaning and personal care products;

19 (ii) Plastic containers that are or are used for medical devices,
20 medical products that are required to be sterile, nonprescription and
21 prescription drugs, or dietary supplements as defined in RCW
22 82.08.0293;

23 (iii) Thermoform plastic containers;

24 (iv) Single-use plastic cups; and

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

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

32 (ii) "PCRC" includes returns of material from the distribution
33 chain.

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

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

39 (i) Household cleaning products that use plastic household
40 cleaning product containers;

- 1 (ii) Personal care products that use plastic personal care
2 product containers;
- 3 (iii) Beverages that use plastic beverage containers;
- 4 (iv) Plastic tubs for food products;
- 5 (v) Thermoform plastic containers; and
- 6 (vi) Single-use plastic cups.

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

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

14 (i) If the item is sold in or with packaging under the brand of
15 the item manufacturer or is sold in packaging that lacks
16 identification of a brand, the producer is the person that
17 manufactures the item;

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

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

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

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

33 (vi) A person is a "producer" of a PCRC product sold, offered for
34 sale, or distributed in or into this state, as defined in (a)(i)
35 through (v) of this subsection, except where another person has
36 mutually signed an agreement with a producer as defined in (a)(i)
37 through (v) of this subsection that contractually assigns
38 responsibility to the person as the producer, and the person has
39 joined a registered producer responsibility organization as the
40 responsible producer for that PCRC product under this chapter. In the

1 event that another person is assigned responsibility as the producer
2 under this subsection, the producer under (a)(i) through (v) of this
3 subsection must provide written certification of that contractual
4 agreement to the producer responsibility organization; or

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

9 (b) "Producer" does not include:

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

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

14 (iii) De minimis producers.

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

17 (21) "Responsible producer" means a producer that is not a de
18 minimis producer.

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

23 (b) "Retail establishment" includes, but is not limited to, food
24 service businesses as defined in RCW 70A.245.010, grocery stores,
25 department stores, hardware stores, home delivery services,
26 pharmacies, liquor stores, restaurants, catering trucks, convenience
27 stores, or other retail stores or vendors, including temporary stores
28 or vendors at farmers markets, street fairs, and festivals.

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

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

32 (i) Commercially or home compostable cups;

33 (ii) Expanded polystyrene cups;

34 (iii) Thermoform plastic containers; or

35 (iv) Composite plastic-lined fiber cups.

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

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

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

7 (iii) Unfilled containers that are sold directly.

8 (b) "Thermoform plastic container" includes:

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

11 (ii) Two-piece unhinged containers;

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

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

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

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

17 (ii) Plastic tubs;

18 (iii) Reusable containers;

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

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

22 (vi) Plastic containers that are or are used for medical devices,
23 medical products that are required to be sterile, prescription or
24 nonprescription drugs, or dietary supplements as defined in RCW
25 82.08.0293;

26 (vii) Commercially or home compostable containers;

27 (viii) Other PCRC products; and

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

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

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

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

4 (b) De minimis producers must annually notify the producer
5 responsibility organization in which the producer participates to
6 demonstrate that they are de minimis producers.

7 (4) A producer responsibility organization may demand from
8 participating producers and must submit to the department information
9 necessary to verify whether a producer qualifies for the de minimis
10 status, including:

11 (a) Annual global gross revenue dollar amount less than or equal
12 to \$5,000,000, not including on-premises alcohol sales;

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

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

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

16 (1)(a) By January 1, 2026, and each January 1st thereafter, a
17 producer responsibility organization under chapter 70A.--- RCW (the
18 new chapter created in section 501 of this act) that represents
19 producers who offers for sale, sells, or distributes in or into
20 Washington PCRC products must register with the department on behalf
21 of each producer registered with the producer responsibility
22 organization with sale or distribution of PCRC products in or into
23 Washington. A producer must continue to register and report to the
24 department and pay the department an annual fee under the methods
25 established in chapter 70A.245 RCW, as it existed as of January 1,
26 2024, until a producer responsibility organization registers with the
27 department under chapter 70A.--- RCW (the new chapter created in
28 section 501 of this act), after which time each producer of PCRC
29 products must either join a registered producer responsibility
30 organization and comply with the requirements of this chapter through
31 that producer responsibility organization, or must register with the
32 department as an individual producer responsibility organization for
33 purposes of compliance with chapter 70A.--- RCW (the new chapter
34 created in section 501 of this act) and this chapter.

35 (b) The registration information submitted under (a) of this
36 subsection must include a list of the producers of PCRC products and
37 the associated brand names of the PCRC products represented in the
38 registration submittal.

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

5 (2) Producers that offer for sale, sell, or distribute in or into
6 Washington the following products must meet the following minimum
7 postconsumer recycled content requirements for products manufactured
8 by the following dates:

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

13 (b) Beginning January 1, 2025, producers of household cleaning
14 products or personal care products in plastic household cleaning
15 product containers or plastic personal care product containers must
16 meet minimum PCRC requirements as required under section 205 of this
17 act.

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

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

25 (e) Beginning January 1, 2029, producers of single-use plastic
26 cups must meet minimum PCRC requirements established under section
27 207 of this act.

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

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

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

38 (i) No later than 30 days after the registration of a producer
39 with a producer responsibility organization under subsection (1)(a)

1 of this section, for plastic beverage containers other than plastic
2 dairy milk containers and 187 milliliter plastic wine containers;

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

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

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

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

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

11 (vii) February 1, 2037, for thermoform plastic containers
12 containing durable goods.

13 (b) Producer PCRC annual reports to the producer responsibility
14 organization must include:

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

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

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

25 NEW SECTION. **Sec. 204.** PCRC REQUIREMENTS FOR PLASTIC BEVERAGE
26 CONTAINERS. A producer of a beverage in a plastic beverage container
27 must meet the following annual minimum PCRC percentage on average for
28 the total quantity of plastic beverage containers, by weight, that
29 are sold, offered for sale, or distributed in or into Washington by
30 the producer effective:

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

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

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

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

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

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

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

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

10 NEW SECTION. **Sec. 205.** PCRC REQUIREMENTS FOR HOUSEHOLD CLEANING
11 PRODUCTS AND PERSONAL CARE PRODUCTS. A producer of household cleaning
12 products in plastic containers or a producer of personal care
13 products in plastic containers must meet the following annual minimum
14 PCRC percentage on average for the total quantity of plastic
15 containers, by weight, that are sold, offered for sale, or
16 distributed in or into Washington by the producer effective:

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

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

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

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

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

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

35 NEW SECTION. **Sec. 207.** PCRC REQUIREMENTS FOR SINGLE-USE PLASTIC
36 CUPS. A producer of single-use plastic cups must meet the following
37 annual minimum PCRC percentage on average for the total quantity of

1 single-use plastic cups, by weight, that are sold, offered for sale,
2 or distributed in or into Washington by the producer effective:

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

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

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

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

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

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

16 NEW SECTION. **Sec. 208.** PCRC REQUIREMENTS FOR THERMOFORM PLASTIC
17 CONTAINERS. A producer of a thermoform plastic container must meet
18 the following annual minimum PCRC percentage on average for the total
19 quantity of thermoform plastic containers, by weight, that are sold,
20 offered for sale, or distributed in or into Washington by the
21 producer effective:

22 (1) For packaging for consumable goods:

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

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

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

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

34 NEW SECTION. **Sec. 209.** PCRC REPORTING BY PRODUCER
35 RESPONSIBILITY ORGANIZATIONS. (1) A producer responsibility
36 organization reporting to the department under this chapter must pay
37 fees as specified in chapter 70A.--- RCW (the new chapter created in
38 section 501 of this act). Fees collected by the producer

1 responsibility organization from producers must be assessed to
2 incentivize the use of PCRC material within each product category,
3 including fee credits for PCRC by resin type reported to the producer
4 responsibility organization.

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

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

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

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

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

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

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

23 (b) (i) A producer must maintain a certificate of compliance for
24 purposes of oversight by the department identifying each PCRC product
25 of the producer that is in compliance with postconsumer requirements
26 under this chapter. No later than six months prior to the initial
27 effective dates of the requirements of sections 203 through 208 of
28 this act, a producer responsibility organization shall evaluate if
29 there are adequate and commercial feasible third-party certifications
30 for PCRC for each PCRC product category with requirements and report
31 to the department on the adequacy of these certifications with a
32 recommendation for their adoption. The department shall have 60 days
33 to respond to the producer responsibility organization to approve,
34 partially approve, deny, or request additional information on their
35 recommendation.

36 (ii) If adequate third-party certifications are deemed to exist
37 by the producer responsibility organization and the department, the
38 certificate of compliance must be conducted by a third-party
39 certification entity, stating that the PCRC product is in compliance
40 with postconsumer recycled content requirements under this chapter. A

1 third-party certification entity must be an independent, accredited
2 (ISO/IEC 17065) certifying body. A producer shall maintain a
3 certificate of compliance within a year by the dates on which the
4 postconsumer recycled content requirements take effect for the
5 producer's PCRC products.

6 (iii) If no adequate third-party certifications are deemed to
7 exist by the producer responsibility organization and the department,
8 the department may request a producer responsibility organization to
9 reevaluate the availability of certification programs at a future
10 time.

11 (c) If compliance with minimum recycled content requirements is
12 achieved through an adjustment, extension, or temporary exclusion
13 made pursuant to section 210 of this act, the certificate must state
14 the specific basis upon which the adjustment, extension, or temporary
15 exclusion is claimed.

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

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

21 (f) Requests from a member of the public for any certificate of
22 compliance must be made in writing to the department and must be
23 specific as to the PCRC product information requested. The department
24 must respond to requests from a member of the public under this
25 subsection within 90 days.

26 (g) If a person is required under any other state statute,
27 including chapter 70A.222 RCW, to provide a certificate of
28 compliance, one certificate may be developed containing all required
29 information.

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

33 (4) (a) A producer responsibility organization may, as a separate
34 submission in February of each year in advance of the effective dates
35 in sections 204 through 208 of this act, petition for an extension,
36 temporary exclusion, or adjustment under section 210 of this act
37 covering the upcoming calendar year to the minimum PCRC requirements
38 on behalf of producers registered with the producer responsibility
39 organization.

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

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

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

14 (5) The department must review and determine whether to approve
15 PCRC reports under this section and petitions under section 210 of
16 this act submitted by producer responsibility organizations. The
17 department must:

18 (a) Make PCRC reports submitted under this section, including
19 petitions for exclusions, extensions, or rate adjustments under
20 section 210 of this act regardless of the timing of petition
21 submission, available for public review and comment for at least 30
22 days upon the receipt of the petition by the department;

23 (b) Make a determination as to whether or not an annual report
24 meets the requirements of this section or a separately submitted
25 petition meets the requirements of section 210 of this act and notify
26 the producer responsibility organization of the:

27 (i) Determination of approval of the PCRC annual report or a
28 separately submitted petition for a rate adjustment, extension, or
29 temporary exclusion; or

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

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

37 NEW SECTION. **Sec. 210.** EXTENSIONS, ADJUSTMENTS, AND TEMPORARY
38 EXCLUSIONS TO PCRC RATES. (1) In response to a petition received from
39 the producer responsibility organization under section 209 of this

1 act, the department has 60 days to review and determine for the
2 following calendar year whether to extend, adjust, or temporarily
3 exclude the minimum PCRC percentage required for a type of container
4 or PCRC product or category of PCRC products under this chapter.

5 (2) PCRC rate extensions may only be requested for the PCRC
6 requirements in sections 204 (1)(c) and (2)(c), 205(3), 206(2), 207
7 (1)(b) and (2)(b), and 208(1)(b) of this act. The producer
8 responsibility organization must include an assessment of market
9 conditions and PCRC availability and the technological feasibility of
10 these requirements. The department must consider these factors in the
11 assessment in making a determination to extend a PCRC rate pursuant
12 to subsection (1) of this section.

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

16 (i) Changes in market conditions, including supply and demand for
17 PCRC plastics, collection rates, and bale availability both
18 domestically and globally;

19 (ii) Recycling rates;

20 (iii) The availability of recycled plastic suitable to meet the
21 minimum PCRC requirements, including the availability of high quality
22 recycled plastic, and food-grade recycled plastic from recycling
23 programs;

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

25 (v) The technical feasibility of achieving the minimum PCRC
26 requirements in PCRC products that are regulated under 21 C.F.R.,
27 chapter I, subchapter G, 7 U.S.C. Sec. 136, 15 U.S.C. Sec. 1471-1477,
28 49 C.F.R. Sec. 178.33b, 49 C.F.R. Sec. 173, 40 C.F.R. Sec. 152.10, 15
29 U.S.C. Sec. 1261-1278, 49 U.S.C. Sec. 5101 et seq., 49 C.F.R. Sec.
30 178.509, 49 C.F.R. Sec. 179.522, 49 C.F.R. Sec. 178.600-609, and
31 other federal laws; and

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

34 (b) The department may not adjust the minimum PCRC requirements
35 above the minimum PCRC percentages under sections 204, 206, 207, and
36 208 of this act for the year under review.

37 (c) For plastic household cleaning product containers and plastic
38 personal care product containers, the department may not adjust the
39 minimum PCRC requirements above the minimum PCRC percentages for the

1 year under review required pursuant to section 205 of this act or
2 below a minimum of 10 percent.

3 (4) A producer responsibility organization may submit a petition
4 to the department for a temporary exclusion from minimum PCRC
5 requirements for any types of PCRC products in plastic containers
6 providing credible evidence that the producer cannot achieve the PCRC
7 requirements and remain in compliance with applicable rules and
8 regulations adopted by the United States food and drug
9 administration, or any other state or federal law, rule, or
10 regulation, or achievement of PCRC requirements in the container
11 material is not technologically feasible.

12 (5) (a) The department shall review extension, adjustment, and
13 temporary exclusion requests from the producer responsibility
14 organization within 60 days of the request and approve, partially
15 approve, deny, or request additional information to evaluate the
16 extension request.

17 (b) The department may renew an approved extension, adjustment,
18 or temporary exclusion, upon request of the producer responsibility
19 organization and submission of data demonstrating that the conditions
20 justifying the current extension, adjustment, or temporary exclusion
21 remain in place.

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

26 (6) A producer responsibility organization must continue to
27 provide producer registration data and report consistent with the
28 requirements of this chapter for PCRC products granted an extension,
29 adjustment, or temporarily exclusion from minimum PCRC requirements
30 under this subsection.

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

37 NEW SECTION. **Sec. 211.** ADMINISTRATIVE ROLE AND ENFORCEMENT BY
38 THE DEPARTMENT. (1) (a) A producer that does not pay fees, register,

1 report, or achieve the PCRC requirements established under this
2 chapter is subject to the penalties provided in this section.

3 (b) A producer responsibility organization that does not meet the
4 registration, fee payment, or reporting requirements under this
5 chapter is subject to the provisions provided in section 123 of this
6 act.

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

21 (b) Beginning June 1st of the year following the first year that
22 minimum PCRC requirements apply to a category of PCRC product, and
23 annually thereafter, the department must determine the penalty for
24 the previous calendar year based on the PCRC requirement of the
25 previous calendar year. The department shall calculate the amount of
26 the penalty based upon the amount in pounds in the aggregate of
27 virgin plastic, PCRC plastic, and any other plastic per category used
28 by the producer to produce PCRC products sold or offered for sale in
29 or into Washington, in accordance with the following:

30 (i)(A) Based on data provided in the annual report submitted
31 under section 209 of this act by a producer responsibility
32 organization, the annual penalty amount assessed to a producer must
33 equal the product of both of the following: The total pounds of
34 plastic used per category multiplied by the relevant minimum PCRC
35 plastic target percentage, less the pounds of total plastic
36 multiplied by the percent of PCRC plastic used; multiplied by 20
37 cents.

38 (B) Example: [(Total pounds of plastic used x minimum PCRC
39 plastic target percentage) - (Total pounds of plastic used x PCRC
40 plastic percentage used)] x 20 cents.

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

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

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

9 (3)(a) Upon request by a producer responsibility organization,
10 the department must consider granting a reduction of penalties
11 assessed under this section for a producer's failure to achieve PCRC
12 requirements established in this chapter. Penalty reduction requests
13 under this subsection must be submitted to the department by August
14 1st of each year. A producer responsibility organization's request to
15 the department must contain sufficient information described in (b)
16 of this subsection to allow the department to determine whether to
17 grant the request.

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

20 (i) Anomalous market conditions;

21 (ii) Disruption in, or lack of supply of, recycled plastics; and

22 (iii) Other factors that have prevented a producer from meeting
23 the minimum PCRC requirements of this chapter.

24 (c) In lieu of or in addition to assessing a penalty under this
25 section, the department may require a producer responsibility
26 organization to submit on behalf of a producer or group of producers
27 a corrective action plan detailing how the producer or producers plan
28 to come into compliance with this chapter.

29 (4) For purposes of determining compliance with the PCRC
30 requirements of this chapter, the department may consider information
31 provided by the producer responsibility organization regarding the
32 date of manufacture of a PCRC product or the container of a PCRC
33 product.

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

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

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

4 (b) A city, town, county, or municipal corporation may establish
5 local purchasing requirements that include recycled content standards
6 that exceed the minimum recycled content requirements established by
7 this chapter for plastic household cleaning product containers and
8 plastic personal care product containers purchased by a city, town,
9 or municipal corporation, or its contractor.

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

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

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

19 The definitions in this section apply throughout this chapter
20 unless the context clearly requires otherwise.

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

25 (a) Water and flavored water;

26 (b) Beer or other malt beverages;

27 (c) Wine;

28 (d) Distilled spirits;

29 (e) Mineral water, soda water, and similar carbonated soft
30 drinks; and

31 (f) Any beverage other than those specified in (a) through (e) of
32 this subsection, except infant formula as defined in 21 U.S.C. Sec.
33 321(z), medical food as defined in 21 U.S.C. Sec. 360ee(b)(3), or
34 fortified oral nutritional supplements used for persons who require
35 supplemental or sole source (~~nutritional needs due to special~~
36 ~~dietary needs directly related to cancer, chronic kidney disease,~~
37 ~~diabetes)) nutrition to meet nutritional needs due to special dietary
38 needs directly related to cancer, chronic kidney disease, diabetes,~~

1 malnutrition, or failure to thrive, as those terms are defined by the
2 international classification of diseases, 10th revision, or other
3 medical conditions as determined by the department.

4 (2) "Beverage manufacturing industry" means an association that
5 represents beverage producers.

6 (3) "Condiment packaging" means packaging used to deliver single-
7 serving condiments to customers. Condiment packaging includes, but is
8 not limited to, single-serving packaging for ketchup, mustard,
9 relish, mayonnaise, hot sauce, coffee creamer, salad dressing, jelly,
10 jam, and soy sauce.

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

14 (i) Plastic trash bags;

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

17 (iii) Beverages that use plastic beverage containers.

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

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

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

25 (7) "Expanded polystyrene" means blown polystyrene and expanded
26 and extruded foams that are thermoplastic petrochemical materials
27 utilizing a styrene monomer and processed by any number of techniques
28 including (~~(, but not limited to,)~~) fusion of polymer spheres
29 (expandable bead polystyrene), injection molding, foam molding, and
30 extrusion-blow molding (extruded foam polystyrene).

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

37 (9) "Food service product" means a product intended for one-time
38 use and used for food or drink offered for sale or use. Food service
39 products include, but are not limited to, containers, plates, bowls,
40 cups, lids, beverage containers, meat trays, deli rounds, utensils,

1 sachets, straws, condiment packaging, clamshells and other hinged or
2 lidded containers, wrap, and portion cups.

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

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

6 (b) Household cleaning products;

7 (c) Liquid soap;

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

10 (e) Lotion, moisturizer, facial toner, and other skin care
11 products.

12 (~~(11)~~) (~~"Household cleaning and personal care product~~
13 ~~manufacturing industry"~~) ~~means an association that represents~~
14 ~~companies that manufacture household cleaning and personal care~~
15 ~~products.~~

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

19 (~~(13)~~) (12) "Oral nutritional supplement" means a manufactured
20 liquid, powder capable of being reconstituted, or solid product that
21 contains a combination of carbohydrates, proteins, fats, fiber,
22 vitamins, and minerals intended to supplement a portion of a
23 patient's nutrition intake.

24 (~~(14)~~) (13) "Plastic beverage container" means a bottle or
25 other rigid container that is capable of maintaining its shape when
26 empty, comprised solely of one or multiple plastic resins designed to
27 contain a beverage. Plastic beverage container does not include:

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

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

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

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

1 (~~(15)~~) (14)(a) "Plastic household cleaning and personal care
2 product container" means a bottle, jug, or other rigid container with
3 a neck or mouth narrower than the base, and:

4 (i) A minimum capacity of eight fluid ounces or its equivalent
5 volume;

6 (ii) A maximum capacity of five fluid gallons or its equivalent
7 volume;

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

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

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

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

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

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

21 (~~(16)~~) (15) "Plastic trash bag" means a bag that is made of
22 noncompostable plastic, is at least 0.70 mils thick, and is designed
23 and manufactured for use as a container to hold, store, or transport
24 materials to be discarded or recycled, and includes, but is not
25 limited to, a garbage bag, recycling bag, lawn or leaf bag, can liner
26 bag, kitchen bag, or compactor bag. "Plastic trash bag" does not
27 include any compostable bags meeting the requirements of chapter
28 70A.455 RCW. "Plastic trash bag" does not include any reusable
29 plastic carryout bag meeting the requirements of RCW
30 70A.530.020(6)(b).

31 (~~(17)~~—"Plastic trash bag") (16) "Certified PCRC product
32 manufacturing industry" means an association that represents
33 companies that manufacture (~~(plastic trash bags)~~) a certified PCRC
34 product.

35 (~~(18)~~) (17) "Postconsumer recycled content" means the content
36 of a (~~(covered product)~~) certified PCRC product made of recycled
37 materials derived specifically from recycled material generated by
38 households or by commercial, industrial, and institutional facilities
39 in their role as end users of a product that can no longer be used

1 for its intended purpose. "Postconsumer recycled content" includes
2 returns of material from the distribution chain.

3 ~~((19))~~ (18) (a) "Producer" means the following person
4 responsible for compliance with minimum postconsumer recycled content
5 requirements under this chapter for a covered product ~~((sold, offered~~
6 ~~for sale, or distributed in or into this state:~~

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

10 ~~(ii) If the covered product is manufactured by a person other~~
11 ~~than the brand owner, the producer is the person who is the licensee~~
12 ~~of a brand or trademark under which a covered product is sold,~~
13 ~~offered for sale, or distributed in or into this state, whether or~~
14 ~~not the trademark is registered in this state, unless the~~
15 ~~manufacturer or brand owner of the covered product has agreed to~~
16 ~~accept responsibility under this chapter; or~~

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

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

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

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

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

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

1 (b) (i) A person is a "producer" of a covered product or certified
2 PCRC product sold, offered for sale, or distributed in or into this
3 state, as defined in (a) (i) through (v) of this subsection, except
4 where another person has mutually signed an agreement with a producer
5 as defined in (a) (i) through (v) of this subsection that
6 contractually assigns responsibility to the person as the producer,
7 and the person has joined a registered producer responsibility
8 organization as the responsible producer for that covered product or
9 certified PCRC product under this chapter. In the event that another
10 person is assigned responsibility as the producer under this
11 subsection, the producer under (a) (i) through (v) of this subsection
12 must provide written certification of that contractual agreement to
13 the producer responsibility organization;

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

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

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

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

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

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

28 ~~(B) A single category of a covered product that in aggregate~~
29 ~~generates less than \$1,000,000 each year in revenue)) For covered~~

30 products, de minimis producers as defined in section 102 of this act.
31 ~~((20))~~ (19) (a) "Retail establishment" means any person,
32 corporation, partnership, business, facility, vendor, organization,
33 or individual that sells or provides merchandise, goods, or materials
34 directly to a customer.

35 (b) "Retail establishment" includes, but is not limited to, food
36 service businesses, grocery stores, department stores, hardware
37 stores, home delivery services, pharmacies, liquor stores,
38 restaurants, catering trucks, convenience stores, or other retail
39 stores or vendors, including temporary stores or vendors at farmers
40 markets, street fairs, and festivals.

1 ~~((21))~~ (20)(a) "Utensil" means a product designed to be used by
2 a consumer to facilitate the consumption of food or beverages,
3 including knives, forks, spoons, cocktail picks, chopsticks, splash
4 sticks, and stirrers.

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

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

9 (a) Plastic household cleaning products or personal care
10 products, as defined in section 201 of this act, in plastic
11 containers, that are pesticide products regulated by the federal
12 insecticide, fungicide, and rodenticide act, 7 U.S.C. Sec. 136 et
13 seq., that are in direct contact with the regulated product, and that
14 are excluded from the requirements of chapters 70A.--- (the new
15 chapter created in section 501 of this act) and 70A.--- RCW (the new
16 chapter created in section 502 of this act);

17 (b) Plastic trash bags; and

18 (c) Plastic plant pots or trays.

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

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

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

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

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

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

38 ~~((c) Beginning January 1, 2028, producers that offer for sale,~~
39 ~~sell, or distribute in or into Washington wine in 187 milliliter~~

1 ~~plastic beverage containers or dairy milk in plastic beverage~~
2 ~~containers must meet minimum postconsumer recycled content as~~
3 ~~required under subsection (4) of this section.)~~

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

11 (b) The registration information submitted to the department
12 under this section must include a list of the producers of covered
13 products and the brand names of the covered products represented in
14 the registration submittal. Beginning April 1, 2024, for plastic
15 trash bags and plastic beverage containers other than wine in 187
16 milliliter plastic beverage containers and dairy milk in plastic
17 beverage containers, (~~April 1, 2026, for plastic household and~~
18 ~~personal care product containers, and April 1, 2029, for wine in 187~~
19 ~~milliliter plastic beverage containers and dairy milk,~~) a producer
20 may submit registration information at the same time as the
21 information submitted through the annual reporting required under RCW
22 70A.245.030.

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

25 (i) Prepare an annual workload analysis for public comment that
26 identifies the annual costs it expects to incur to implement,
27 administer, and enforce this section and RCW 70A.245.030 through
28 70A.245.060 and 70A.245.090 (1), (2), and (4), including rule making,
29 in the next fiscal year for each category of covered products;

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

34 (iii) Until rules are adopted under (a)(iv) of this subsection,
35 issue a general order to all entities falling within the definition
36 of producer. The department must equitably determine fee amounts for
37 an individual producer or third-party representatives within each
38 category of covered product;

39 (iv) By 2024, adopt rules to equitably determine annual fee
40 payments by producers or their third-party representatives within

1 each category of covered product. Once such rules are adopted, the
2 general order issued under (a)(iii) of this subsection is no longer
3 effective; and

4 (v) Send notice to producers or their third-party representatives
5 of fee amounts due consistent with either the general order issued
6 under (a)(iii) of this subsection or rules adopted under (a)(iv) of
7 this subsection.

8 (b) The department must:

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

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

15 (c) By April 1, 2022, and every April 1st thereafter until April
16 1, 2025, producers or their third-party representative must submit a
17 fee payment as determined by the department under (a) of this
18 subsection.

19 (4) A producer of a beverage (~~in a plastic beverage container~~
20 ~~must meet the following annual minimum postconsumer recycled content~~
21 ~~percentage)) in a plastic beverage container, except wine in 187
22 milliliter plastic beverage containers and dairy milk, must achieve
23 no less than 15 percent postconsumer recycled content plastic by
24 weight on average for the total quantity of plastic beverage
25 containers, by weight, that are sold, offered for sale, or
26 distributed in or into Washington by the producer effective(~~(~~~~

27 ~~(a) For beverages except wine in 187 milliliter plastic beverage~~
28 ~~containers and dairy milk:~~

29 ~~(i))~~ for products manufactured between January 1, 2023, through
30 December 31, 2025(~~(~~ ~~No less than 15 percent postconsumer recycled~~
31 ~~content plastic by weight;~~

32 ~~(ii) January 1, 2026, through December 31, 2030: No less than 25~~
33 ~~percent postconsumer recycled content plastic by weight; and~~

34 ~~(iii) On and after January 1, 2031: No less than 50 percent~~
35 ~~postconsumer recycled content plastic by weight.~~

36 ~~(b) For wine in 187 milliliter plastic beverage containers and~~
37 ~~dairy milk:~~

38 ~~(i) January 1, 2028, through December 31, 2030: No less than 15~~
39 ~~percent postconsumer recycled content plastic by weight;~~

1 ~~(ii) January 1, 2031, through December 31, 2035: No less than 25~~
2 ~~percent postconsumer recycled content plastic by weight; and~~
3 ~~(iii) On and after January 1, 2036: No less than 50 percent~~
4 ~~postconsumer recycled content plastic by weight)).~~

5 (5) A producer of household cleaning and personal care products
6 in plastic containers must meet the following annual minimum
7 postconsumer recycled content percentage on average for the total
8 quantity of plastic containers, by weight, that are sold, offered for
9 sale, or distributed in or into Washington by the producer and
10 manufactured between January 1, 2025, through December 31, 2025: No
11 less than 15 percent postconsumer recycled content plastic by weight.

12 (6) A producer of household cleaning ((and)) or plastic personal
13 care products that are pesticide products regulated by the federal
14 insecticide, fungicide, and rodenticide act, 7 U.S.C. Sec. 136 et
15 seq. and that are excluded from the requirements of chapters 70A.---
16 (the new chapter created in section 501 of this act) and 70A.--- RCW
17 (the new chapter created in section 502 of this act) in plastic
18 containers that are in direct contact with the regulated product must
19 meet the following annual minimum postconsumer recycled content
20 percentage on average for the total quantity of plastic containers,
21 by 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, 2025, through
24 December 31, 2027: No less than 15 percent postconsumer recycled
25 content plastic by weight;

26 (b) Products manufactured between January 1, 2028, through
27 December 31, 2030: No less than 25 percent postconsumer recycled
28 content plastic by weight; and

29 (c) ((Or)) Products manufactured on and after January 1, 2031: No
30 less than 50 percent postconsumer recycled content plastic by weight.

31 ((+6)) (7) A producer of plastic trash bags must meet the
32 following annual minimum postconsumer recycled content percentage on
33 average for the total quantity of plastic trash bags, by weight, that
34 are sold, offered for sale, or distributed in or into Washington by
35 the producer effective:

36 (a) Products manufactured between January 1, 2023, through
37 December 31, 2024: No less than 10 percent postconsumer recycled
38 content plastic by weight;

1 (b) Products manufactured between January 1, 2025, through
2 December 31, 2026: No less than 15 percent postconsumer recycled
3 content plastic by weight; and

4 (c) ~~((0n))~~ Products manufactured on and after January 1, 2027: No
5 less than 20 percent postconsumer recycled content plastic by weight.

6 ~~((7)(a) Beginning January 1, 2024, or when rule making is
7 complete, whichever is sooner, the department may, on an annual basis
8 on January 1st, review and determine for the following year whether
9 to adjust the minimum postconsumer recycled content percentage
10 required for a type of container or product or category of covered
11 products pursuant to subsection (4), (5), or (6) of this section. The
12 department's review may be initiated by the department or at the
13 petition of a producer or a covered product manufacturing industry
14 not more than once annually. When submitting a petition, producers or
15 a producer manufacturing industry must provide necessary information
16 that will allow the department to make a determination under (b) of
17 this subsection.~~

18 ~~(b) In making a determination pursuant to this subsection, the
19 department must consider, at a minimum, all of the following factors:~~

20 ~~(i) Changes in market conditions, including supply and demand for
21 postconsumer recycled content plastics, collection rates, and bale
22 availability both domestically and globally;~~

23 ~~(ii) Recycling rates;~~

24 ~~(iii) The availability of recycled plastic suitable to meet the
25 minimum postconsumer recycled content requirements pursuant to
26 subsection (4), (5), or (6) of this section, including the
27 availability of high quality recycled plastic, and food-grade
28 recycled plastic from recycling programs;~~

29 ~~(iv) The capacity of recycling or processing infrastructure;~~

30 ~~(v) The technical feasibility of achieving the minimum
31 postconsumer recycled content requirements in covered products that
32 are regulated under 21 C.F.R., chapter I, subchapter G, 7 U.S.C. Sec.
33 136, 15 U.S.C. Sec. 1471-1477, 49 C.F.R. Sec. 178.33b, 49 C.F.R. Sec.
34 173, 40 C.F.R. Sec. 152.10, 15 U.S.C. Sec. 1261-1278, 49 U.S.C. 5101
35 et seq., 49 C.F.R. Sec. 178.509, 49 C.F.R. Sec. 179.522, 49 C.F.R.
36 Sec. 178.600-609, and other federal laws; and~~

37 ~~(vi) The progress made by producers in achieving the goals of
38 this section.~~

39 ~~(c) Under (a) of this subsection:~~

1 ~~(i) The department may not adjust the minimum postconsumer~~
2 ~~recycled content requirements above the minimum postconsumer recycled~~
3 ~~content percentages for the year under review required pursuant to~~
4 ~~subsection (4), (5), or (6) of this section.~~

5 ~~(ii))~~ (8) A producer of plastic plant pots or trays must meet
6 the following annual minimum postconsumer recycled content percentage
7 on average for the total quantity of plastic plant pots or trays, by
8 weight, that are sold, offered for sale, or distributed in or into
9 Washington by the producer effective:

10 (a) Products manufactured between January 1, 2026, through
11 December 31, 2030: No less than 30 percent postconsumer recycled
12 content plastic by weight;

13 (b) Products manufactured on and after January 1, 2031: No less
14 than 80 percent postconsumer recycled content plastic by weight.

15 (9) (a) The department must manage requests by producers under
16 this chapter for a PCRC rate adjustment, extension, or temporary
17 exclusion in a manner consistent with the procedures for the
18 submission and review of rate adjustments, extensions, or temporary
19 exclusions by producer responsibility organizations under section 209
20 of this act. Subsections (b), (c), and (d) of this subsection provide
21 specific additional provisions applicable to the rate adjustments,
22 extensions, or temporary exclusions allowed under this chapter.

23 (b) For plastic household cleaning and personal care product
24 containers, the department may not adjust the minimum postconsumer
25 recycled content requirements above the minimum postconsumer recycled
26 content percentages for the year under review required pursuant to
27 subsection ((5)) (6) of this section or below a minimum of 10
28 percent.

29 ~~((iii))~~ (c) For plastic trash bags, the department may not
30 adjust the minimum postconsumer recycled content requirements above
31 the minimum postconsumer recycled content percentages for the year
32 under review required pursuant to ((subsection (6) of)) this section
33 or below the minimum percentage required in ((subsection (6)(a) of))
34 this section.

35 ~~(d) (A producer or the manufacturing industry for a covered~~
36 ~~product may appeal a decision by the department to adjust~~
37 ~~postconsumer recycled content percentages under (a) of this~~
38 ~~subsection or to temporarily exclude covered products from minimum~~
39 ~~postconsumer recycled content requirements under subsection (8) of~~

1 this section to the pollution control hearings board within 30 days
2 of the department's determination.

3 ~~(8) The department must temporarily exclude from minimum~~
4 ~~postconsumer recycled content requirements for the upcoming year any~~
5 ~~types of covered products in plastic containers for which a producer~~
6 ~~annually demonstrates to the department by December 31st of a given~~
7 ~~year that the achievement of postconsumer recycled content~~
8 ~~requirements in the container material is not technically feasible in~~
9 ~~order to comply with health or safety requirements of federal law,~~
10 ~~including the federal laws specified in subsection (7)(b)(v) of this~~
11 ~~section. A producer must continue to register and report consistent~~
12 ~~with the requirements of this chapter for covered products~~
13 ~~temporarily excluded from minimum postconsumer recycled content~~
14 ~~requirements under this subsection)) Any exclusion for a product~~
15 ~~regulated under 7 U.S.C. Sec. 136 et seq. must be granted for a~~
16 ~~period of four years from the date of department approval.~~

17 ~~((9))~~ (10) A producer that does not achieve the postconsumer
18 recycled content requirements established under this section or does
19 not comply with the labeling requirements established in RCW
20 70A.245.060 is subject to penalties established in RCW 70A.245.040.

21 ~~((10))~~ (11)(a) A city, town, county, or municipal corporation
22 may not implement local recycled content requirements for ~~((a covered~~
23 ~~product that is))~~ certified PCRC products or covered products that
24 are subject to minimum postconsumer recycled content requirements
25 established in this section.

26 (b) A city, town, county, or municipal corporation may establish
27 local purchasing requirements that include recycled content standards
28 that exceed the minimum recycled content requirements established by
29 this chapter for ~~((plastic household cleaning and personal care~~
30 ~~product containers or plastic trash bags))~~ certified PCRC products or
31 covered products purchased by a city, town, or municipal corporation,
32 or its contractor.

33 ~~((11) The department may enter into contracts for the services~~
34 ~~required to implement this chapter and related duties of the~~
35 ~~department.))~~

36 (12) In-state distributors, wholesalers, and retailers in
37 possession of ~~((covered products))~~ certified PCRC products or covered
38 products manufactured before the date that postconsumer recycled
39 content requirements become effective may exhaust their existing
40 stock through sales to the public.

1 **Sec. 215.** RCW 70A.245.030 and 2021 c 313 s 4 are each amended to
2 read as follows:

3 (1) (a) Except as provided in (b) (~~and (c)~~) of this subsection,
4 (~~beginning~~) on April 1, 2024, and April 1, 2025, each producer of
5 covered products, individually or through a third party representing
6 a group of producers, must provide an annual report to the department
7 that includes the amount in pounds of virgin plastic and the amount
8 in pounds of postconsumer recycled content by resin type used for
9 each category of covered products that are sold, offered for sale, or
10 distributed in or into Washington state, including the total
11 postconsumer recycled content resins as a percentage of total weight.
12 The report must be submitted in a format and manner prescribed by the
13 department. A manufacturer may submit national data allocated on a
14 per capita basis for Washington to approximate the information
15 required in this subsection if the producer or third-party
16 representative demonstrates to the department that state level data
17 are not available or feasible to generate.

18 (b) The requirements of (a) of this subsection apply to household
19 cleaning and personal care products in plastic containers beginning
20 April 1, 2026.

21 (c) (~~The requirements of (a) of this subsection apply to wine in~~
22 ~~187 milliliter plastic beverage containers and dairy milk in plastic~~
23 ~~beverage containers beginning April 1, 2029.~~

24 ~~(d)~~) The department must post the information reported under
25 this subsection on its website, except as provided in subsection (2)
26 of this section.

27 (d) A plastic trash bag producer must develop a certificate of
28 compliance within one year of the beginning of postconsumer recycled
29 content requirements applicable to a plastic trash bag, conducted by
30 a third-party certification entity, stating that a plastic trash bag
31 is in compliance with the labeling requirements of RCW 70A.245.060
32 and the postconsumer recycled content requirements of RCW 70.245.020.
33 A producer of other certified PCRC products must maintain a
34 certificate of compliance stating that the certified PCRC product is
35 in compliance with the postconsumer recycled content requirements of
36 RCW 70A.245.020. A third-party certification entity must be an
37 independent, accredited (ISO/IEC 17065) certifying body. The producer
38 shall develop a compliance certificate by the dates on which the
39 postconsumer recycled content requirements in RCW 70A.245.020 take
40 effect for the producer's certified PCRC products.

1 (2) A producer that submits information or records to the
2 department under this chapter may request that the information or
3 records be made available only for the confidential use of the
4 department, the director, or the appropriate division of the
5 department. The director of the department must give consideration to
6 the request and if this action is not detrimental to the public
7 interest and is otherwise in accordance with the policies and
8 purposes of chapter 43.21A RCW, the director must grant the request
9 for the information to remain confidential as authorized in RCW
10 43.21A.160.

11 (3) If compliance with minimum recycled content requirements is
12 achieved through an adjustment, extension, or temporary exclusion
13 made pursuant to RCW 70A.245.020, the certificate must state the
14 specific basis upon which the temporary exclusion, extension, or
15 adjustment is claimed.

16 (4) (a) The certificate of compliance must be signed by an
17 authorized official of the producer unless the certificate is
18 provided by a third-party certification entity.

19 (b) The certificate of compliance must be kept on file by the
20 producer for three years from the date of the last sale or
21 distribution by the producer.

22 (c) A producer must furnish a certificate of compliance to the
23 department upon request within 60 days.

24 (d) Requests from a member of the public for any certificate of
25 compliance must be made in writing to the department and must be
26 specific as to the certified PCRC product information requested. The
27 department must respond to requests from a member of the public under
28 this subsection within 90 days.

29 (e) If a person is required under any other state statute,
30 including chapter 70A.222 RCW, to provide a certificate of
31 compliance, one certificate may be developed containing all required
32 information.

33 (f) If the producer of the certified PCRC product reformulates or
34 creates a new certified PCRC product, the producer shall develop an
35 amended or new certificate of compliance for the reformulated or new
36 certified PCRC product.

37 **Sec. 216.** RCW 70A.245.040 and 2021 c 313 s 5 are each amended to
38 read as follows:

39 (1) For covered products:

1 (a) A producer that does not meet the minimum postconsumer
2 recycled content requirements pursuant to RCW 70A.245.020 is subject
3 to a penalty pursuant to this section. Beginning June 1st of the year
4 following the first year that minimum postconsumer recycled product
5 content requirements apply to a category of covered product, the
6 penalty must be calculated consistent with subsection (2) of this
7 section unless a penalty reduction or corrective action plan has been
8 approved pursuant to subsection (3) of this section.

9 (b) A producer that is assessed a penalty pursuant to this
10 section may pay the penalty to the department in one payment, in
11 quarterly installments, or arrange an alternative payment schedule
12 subject to the approval of the department, not to exceed a 12-month
13 payment schedule unless the department determines an extension is
14 needed due to unforeseen circumstances, such as a public health
15 emergency, state of emergency, or natural disaster.

16 (2) Beginning June 1st of the year following the first year that
17 minimum postconsumer recycled product content requirements apply to a
18 category of covered product, and annually thereafter, the department
19 shall determine the penalty for the previous calendar year based on
20 the postconsumer recycled content requirement of the previous
21 calendar year. The department shall calculate the amount of the
22 penalty based upon the amounts in pounds in the aggregate of virgin
23 plastic, postconsumer recycled content plastic, and any other plastic
24 per category used by the producer to produce covered products sold or
25 offered for sale in or into Washington state, in accordance with the
26 following:

27 (a) (i) The annual penalty amount assessed to a producer must
28 equal the product of both of the following: The total pounds of
29 plastic used per category multiplied by the relevant minimum
30 postconsumer recycled plastic target percentage, less the pounds of
31 total plastic multiplied by the percent of postconsumer recycled
32 plastic used; multiplied by 20 cents.

33 (ii) Example: [(Total pounds of plastic used x minimum
34 postconsumer recycled plastic target percentage) - (Total pounds of
35 plastic used x postconsumer recycled plastic percentage used)] x 20
36 cents.

37 (b) For the purposes of (a) of this subsection, both of the
38 following apply:

39 (i) The total pounds of plastic used must equal the sum of the
40 amount of virgin plastic, postconsumer recycled content plastic, and

1 any other plastic used by the producer, as reported pursuant to RCW
2 70A.245.030.

3 (ii) If the product calculated pursuant to (a) of this subsection
4 is equal to or less than zero, the department may not assess a
5 penalty.

6 (3) (a) (i) The department shall consider granting a reduction of
7 penalties assessed pursuant to this section for the purpose of
8 meeting the minimum postconsumer recycled content requirements
9 required pursuant to RCW 70A.245.020.

10 (ii) In determining whether to grant the reduction pursuant to
11 (a)(i) of this subsection, the department shall consider, at a
12 minimum, all of the following factors:

13 (A) Anomalous market conditions;

14 (B) Disruption in, or lack of supply of, recycled plastics; and

15 (C) Other factors that have prevented a producer from meeting the
16 requirements.

17 (b) In lieu of or in addition to assessing a penalty under this
18 section, the department may require a producer to submit a corrective
19 action plan detailing how the producer plans to come into compliance
20 with RCW 70A.245.020.

21 (4) For the purposes of determining compliance with the
22 postconsumer recycled content requirements of this chapter, the
23 department may consider the date of manufacture of a covered product
24 or the container of a covered product.

25 (5) A producer shall pay the penalty assessed pursuant to this
26 section, as applicable, based on the information reported to the
27 department as required under RCW 70A.245.030 in the form and manner
28 prescribed by the department.

29 (6) For certified PCRC products:

30 (a) The department may assess a civil penalty to a producer in
31 violation of the requirements of RCW 70A.245.020, 70A.245.030, or
32 70A.245.060 in the amount of up to \$2,000 for the first violation of
33 this chapter, up to \$5,000 for the second violation of this chapter,
34 and up to \$10,000 for the third and any subsequent violation of RCW
35 70A.245.020, 70A.245.030, or 70A.245.060.

36 (b) A specific violation is deemed to have occurred upon the sale
37 of noncompliant product by stock-keeping unit number or unique item
38 number. The repeated sale of the same noncompliant product by stock-
39 keeping unit number or unique item number is considered a single
40 violation.

1 (7) For the purposes of determining compliance with the
2 postconsumer recycled content requirements of this chapter, the
3 department may consider the date of manufacture of a certified PCRC
4 product.

5 (8) A producer may appeal the penalty assessed under this section
6 to the pollution control hearings board within 30 days of assessment.

7 ~~((7))~~ (9) Penalties collected under this section must be
8 deposited in the recycling enhancement account created in RCW
9 70A.245.100.

10 **Sec. 217.** RCW 70A.245.090 and 2021 c 313 s 12 are each amended
11 to read as follows:

12 (1) ~~((The))~~ Until December 31, 2025, the department may conduct
13 audits and investigations for the purpose of ensuring covered product
14 compliance with RCW 70A.245.020 and 70A.245.040 based on the
15 information reported under RCW 70A.245.030.

16 (2) ~~((The))~~ Until December 31, 2025, the department shall
17 annually publish a list of registered producers of covered products
18 and associated brand names, their compliance status, and other
19 information the department deems appropriate on the department's
20 website.

21 (3) To assist regulated parties with the requirements specified
22 under RCW 70A.245.070 and 70A.245.080, the department:

23 (a) Must prepare and post on its website information regarding
24 the prohibitions on the sale and distribution of expanded polystyrene
25 products as specified under RCW 70A.245.070 and restrictions on the
26 provision of optional serviceware under RCW 70A.245.080;

27 (b) For education and outreach to help implement RCW 70A.245.070
28 and 70A.245.080, may develop culturally appropriate and translated
29 educational materials and resources for the state's diverse ethnic
30 populations from existing materials used by local jurisdictions and
31 other states.

32 (4) The department may adopt rules as necessary to administer,
33 implement, and enforce this chapter.

34 **Sec. 218.** RCW 70A.245.100 and 2021 c 313 s 13 are each amended
35 to read as follows:

36 The recycling enhancement account is created in the custody of
37 the state treasurer. All penalties collected by the department
38 pursuant to RCW 70A.245.040 ~~((and)),~~ 70A.245.050, and sections 123

1 and 211 of this act must be deposited in the account. Only the
2 director of the department or the director's designee may authorize
3 expenditures from the account. The account is subject to the
4 allotment procedures under chapter 43.88 RCW, but an appropriation is
5 not required for expenditures. Expenditures from the account may be
6 used by the department only for providing grants to local governments
7 for the purpose of supporting local solid waste and financial
8 assistance programs.

9 **Sec. 219.** RCW 70A.245.120 and 2021 c 313 s 15 are each amended
10 to read as follows:

11 (1) Subject to the availability of amounts appropriated for this
12 specific purpose prior to January 1, 2028, the department shall
13 contract with a research university or an independent third-party
14 consultant to study the plastic resin markets for all of the
15 following:

16 (a) Analyzing market conditions and opportunities in the state's
17 recycling industry for meeting the minimum postconsumer recycled
18 content requirements for (~~covered products~~) certified PCRC products
19 pursuant to RCW 70A.245.020 and 70A.245.030 for products subject to
20 minimum postconsumer recycled content requirements under chapter
21 70A.--- RCW (the new chapter created in section 502 of this act) and
22 this chapter, and for plastic collection bins subject to section 221
23 of this act; and

24 (b) Determining the data needs and tracking opportunities to
25 increase the transparency and support of a more effective, fact-based
26 public understanding of the recycling industry.

27 (2) If funding is provided pursuant to subsection (1) of this
28 section and the department undertakes the study, the study must be
29 completed by May 1, 2029.

30 (3) This section expires July 1, 2029.

31 **Sec. 220.** RCW 70A.245.060 and 2021 c 313 s 7 are each amended to
32 read as follows:

33 (1) Beginning January 1, 2023, producers shall label each package
34 containing plastic trash bags sold, offered for sale, or distributed
35 in or into Washington with:

36 (a) The name of the producer and the city, state, and country
37 where the producer is located, which may be designated as the
38 location of the producer's corporate headquarters, and, beginning

1 January 1, 2026, the percentage of postconsumer recycled content that
2 the plastic trash bag contains in accordance with 16 C.F.R. Part 260,
3 as it existed as of the effective date of this section; or

4 (b) A uniform resource locator or quick response code to an
5 internet website that contains the information required pursuant to
6 (a) of this subsection.

7 (2)(a) The provisions of subsection (1) of this section do not
8 apply to a plastic bag that is designed and manufactured to hold,
9 store, or transport dangerous waste or biomedical waste.

10 (b) For the purposes of this subsection:

11 (i) "Biomedical waste" means any waste defined as that term under
12 RCW 70A.228.010; and

13 (ii) "Dangerous waste" means any waste defined as dangerous
14 wastes under RCW 70A.300.010.

15 NEW SECTION. Sec. 221. A new section is added to chapter
16 70A.245 RCW to read as follows:

17 ROLL CARTS. (1) Beginning January 1, 2025, a manufacturer or
18 person may only sell, offer for sale, or distribute for use in
19 Washington plastic collection bins made from at least 25 percent
20 postconsumer recycled content. However, a person providing solid
21 waste collection services may distribute for use in Washington any
22 plastic collection bins that were in use or in its inventory in
23 Washington state prior to January 1, 2025, until the end of such a
24 bin's useful life.

25 (2) A person with an existing municipal contract for plastic
26 collection bins that was in place prior to August 1, 2024, is exempt
27 from this section until the expiration or renewal date of the
28 contract. A new or renewed contract whose terms take effect after
29 August 1, 2024, must be consistent with the requirements of this
30 section. Exempt persons are encouraged to meet the requirements of
31 this section as collection bins are replaced under existing
32 contracts.

33 (3) Manufacturers of plastic collection bins, including persons
34 that sell, offer for sale, distribute, or provide collection bins in
35 Washington must provide written evidence or certification, upon
36 request, to the department or any municipality, retailer, stewardship
37 organization, solid waste collection company, or other purchaser of
38 collection bins showing that their collection bins meet the
39 requirements of this section.

1 (4) For the purposes of this section, "plastic collection bins"
2 include plastic bins, cans, carts, toters, roll carts, or other
3 receptacles used to collect recyclables, compostable materials, or
4 garbage used by solid waste collection services.

5 **Part Three**

6 **Amendments to Solid Waste Management Laws**

7 **Sec. 301.** RCW 70A.205.005 and 2002 c 299 s 3 are each amended to
8 read as follows:

9 The legislature finds:

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

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

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

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

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

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

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

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

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

24 (e) It is the responsibility of producers to help provide for the
25 responsible management of their products.

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

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

33 (a) Waste reduction;

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

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

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

1 (9) It is the state's goal to achieve a (~~fifty~~) 50 percent
2 recycling rate by 2007.

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

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

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

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

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

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

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

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

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

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

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

1 **Sec. 302.** RCW 70A.205.010 and 2005 c 394 s 2 are each amended to
2 read as follows:

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

8 ~~((1))~~ (a) To assign primary responsibility for adequate solid
9 waste handling to local government, reserving to the state, however,
10 those functions necessary to assure effective programs throughout the
11 state;

12 ~~((2))~~ (b) To provide for adequate planning for solid waste
13 handling by local government;

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

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

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

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

30 ~~(7))~~ (g) To encourage the development and operation of waste
31 recycling facilities and activities needed to accomplish the
32 management priority of waste recycling and to promote consistency in
33 the permitting requirements for such facilities and activities
34 throughout the state; and

35 (h) To assign producer responsibility for covered products under
36 chapters 70A.500, 70A.505, 70A.510, 70A.515, 70A.550, 69.48, and
37 70A.--- RCW (the new chapter created in section 501 of this act).

38 (2) It is the intent of the legislature that local governments be
39 encouraged to use the expertise of private industry and to contract

1 with private industry to the fullest extent possible to carry out
2 solid waste recovery and/or recycling programs.

3 **Sec. 303.** RCW 70A.205.045 and 2020 c 20 s 1163 are each amended
4 to read as follows:

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

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

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

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

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

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

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

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

26 (4) A program for surveillance and control.

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

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

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

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

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

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

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

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

14 (b) Source separation strategies, including:

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

17 (A) Until January 1, 2029, these programs shall include
18 collection of source separated recyclable materials from single and
19 multiple-family residences, in urban areas, unless the department
20 approves an alternative program, according to the criteria in the
21 planning guidelines. Such criteria shall include: Anticipated
22 recovery rates and levels of public participation, availability of
23 environmentally sound disposal capacity, access to markets for
24 recyclable materials, unreasonable cost impacts on the ratepayer over
25 the six-year planning period, utilization of environmentally sound
26 waste reduction and recycling technologies, and other factors as
27 appropriate. In rural areas, these programs shall include but not be
28 limited to drop-off boxes, buy-back centers, or a combination of
29 both, at each solid waste transfer, processing, or disposal site, or
30 at locations convenient to the residents of the county. The drop-off
31 boxes and buy-back centers may be owned or operated by public,
32 nonprofit, or private persons;

33 (B) Beginning January 1, 2029, except where the county has
34 adopted an ordinance consistent with section 114 of this act
35 establishing that the full list of materials on the uniform statewide
36 collection list for curbside recycling programs established by the
37 department must be collected exclusively through drop-off locations
38 in areas regulated by the utilities and transportation commission
39 under the provisions of chapter 81.77 RCW as allowed under the

1 provisions of chapter 70A.--- RCW (the new chapter created in section
2 501 of this act), these programs shall:

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

6 (II) Include materials on the uniform statewide collection list
7 designated for curbside collection established by the department; and

8 (III) Include the service standards for curbside collection
9 frequency, container size, and method of collection, established
10 under plans approved by the department under chapter 70A.--- RCW (the
11 new chapter created in section 501 of this act);

12 (C) Comprehensive solid waste management plans that are newly
13 developed, updated, or amended after October 1, 2027, may incorporate
14 by reference programs described in an approved producer
15 responsibility organization plan under chapter 70A.--- RCW (the new
16 chapter created in section 501 of this act) to fulfill this
17 requirement in whole or in part;

18 (D) Before January 1, 2029, each comprehensive solid waste
19 management plan must be amended, revised, or updated by a
20 jurisdiction consistent with the requirements of this subsection
21 (7)(b)(i). Beginning January 1, 2029, until a comprehensive solid
22 waste management plan is amended, revised, or updated to be
23 consistent with the requirements of this subsection (7)(b)(i), the
24 model comprehensive solid waste plan amendment provided by the
25 department under section 104 of this act applies in the jurisdiction;

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

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

34 (iv) Programs to educate and promote the concepts of waste
35 reduction, reuse, and recycling;

36 ~~(c) ((Recycling strategies, including a description of markets~~
37 ~~for recyclables, a review of waste generation trends, a description~~
38 ~~of waste composition, a discussion and description of existing~~
39 ~~programs and any additional programs needed to assist public and~~
40 ~~private sector recycling, and an implementation schedule for the~~

1 ~~designation of specific materials to be collected for recycling, and~~
2 ~~for the provision of recycling collection services;~~

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

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

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

13 (10) A contamination reduction and outreach plan. The
14 contamination reduction and outreach plan must address reducing
15 contamination in recycling. Except for counties with a population of
16 ~~((twenty-five thousand))~~ 25,000 or fewer, by July 1, 2021, a
17 contamination reduction and outreach plan must be included in each
18 solid waste management plan by a plan amendment or included when
19 revising or updating a solid waste management plan developed under
20 this chapter. Jurisdictions may adopt the state's contamination
21 reduction and outreach plan as developed under RCW 70A.205.070 or
22 participate in a producer responsibility organization's plan in lieu
23 of creating their own plan. A recycling contamination reduction and
24 outreach plan must include the following:

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

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

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

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

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

1 **Sec. 304.** RCW 81.77.030 and 2020 c 20 s 1467 are each amended to
2 read as follows:

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

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

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

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

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

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

16 ~~((6))~~ (f) By reviewing producer responsibility organization
17 reimbursement of regulated service providers consistent with the
18 requirements of chapter 70A.--- RCW (the new chapter created in
19 section 501 of this act);

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

28 (h) By requiring certificate holders under this chapter to
29 deliver covered products, as defined in section 102 of this act,
30 collected from residents only to facilities that meet the
31 requirements of section 110(2) of this act.

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

1 **Sec. 305.** RCW 81.77.160 and 1997 c 434 s 1 are each amended to
2 read as follows:

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

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

9 (b) All known and measurable costs related to implementation of
10 the approved county or city comprehensive solid waste management
11 plan; and

12 (c) All costs related to the implementation of curbside recycling
13 collection services performed by a solid waste collection company
14 consistent with chapter 70A.--- RCW (the new chapter created in
15 section 501 of this act).

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

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

28 NEW SECTION. **Sec. 306.** A new section is added to chapter 81.77
29 RCW to read as follows:

30 (1) The commission shall adopt rules to establish schedules for
31 payments from producer responsibility organizations formed under
32 chapter 70A.--- RCW (the new chapter created in section 501 of this
33 act) to solid waste collection companies for full cost recovery and
34 reimbursement mechanisms for residential recycling customers.

35 (2)(a) For solid waste collection company payment schedules, the
36 commission shall adopt rules to ensure that solid waste collection
37 companies maintain:

38 (i) Financial solvency; and

39 (ii) Ordinary cash flow.

1 (b) Under the rules adopted by the commission, payment schedules
2 must be consistent with:

- 3 (i) Any tariffs approved by the commission;
4 (ii) Payment schedules included in comprehensive solid waste
5 management plans prepared under RCW 70A.205.045;
6 (iii) Local service level ordinances; and
7 (iv) Other factors determined by the commission to be necessary
8 and in the public interest.

9 (3) For residential recycling customer reimbursement, the
10 commission shall develop rules that:

11 (a) Establish a credit mechanism for customers to be reimbursed
12 for the full cost of curbside recycling consistent with section 116
13 of this act; and

14 (b) Maintain existing billing practices for solid waste
15 collection companies.

16 (4) Nothing in this section requires a solid waste collection
17 company to issue a billing credit for curbside recycling to customers
18 if the company has not received a payment from the producer
19 responsibility organization sufficient to cover the cost of the
20 credit to all customers covered by the company tariff.

21 **Sec. 307.** RCW 81.77.185 and 2010 c 154 s 3 are each amended to
22 read as follows:

23 (1) The commission shall allow solid waste collection companies
24 collecting recyclable materials other than covered products collected
25 under an approved plan in chapter 70A.--- RCW (the new chapter
26 created in section 501 of this act) to retain up to ((fifty)) 50
27 percent of the revenue paid to the companies for the material if the
28 companies submit a plan to the commission that is certified by the
29 appropriate local government authority as being consistent with the
30 local government solid waste plan and that demonstrates how the
31 revenues will be used to increase recycling. The remaining revenue
32 shall be passed to residential customers.

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

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

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

1 **Other Conforming Amendments and Miscellaneous Provisions**

2 **Sec. 401.** RCW 43.21B.110 and 2023 c 455 s 5, 2023 c 434 s 20,
3 2023 c 344 s 5, and 2023 c 135 s 6 are each reenacted and amended to
4 read as follows:

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

12 (a) Civil penalties imposed pursuant to RCW 18.104.155,
13 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070,
14 70A.515.060, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080,
15 70A.245.130, 70A.245.140, 70A.65.200, 70A.455.090, 70A.550.030,
16 70A.555.110, 70A.560.020, sections 123 and 211 of this act,
17 76.09.170, 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270,
18 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

19 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
20 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070,
21 70A.245.020, 70A.65.200, 70A.555.110, 70A.560.020, sections 123 and
22 211 of this act, 86.16.020, 88.46.070, 90.14.130, 90.46.250,
23 90.48.120, and 90.56.330.

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

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

34 (e) Decisions of local health departments regarding the issuance
35 and enforcement of permits to use or dispose of biosolids under RCW
36 70A.226.090.

37 (f) Decisions of the department regarding waste-derived
38 fertilizer or micronutrient fertilizer under RCW 15.54.820, and

1 decisions of the department regarding waste-derived soil amendments
2 under RCW 70A.205.145.

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

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

12 (i) Decisions of the department of natural resources, the
13 department of fish and wildlife, and the department that are
14 reviewable under chapter 76.09 RCW, and the department of natural
15 resources' appeals of county, city, or town objections under RCW
16 76.09.050(7).

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

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

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

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

30 (n) Decisions of the department of ecology that are appealable
31 under RCW 70A.245.020 or section 210 of this act to set recycled
32 minimum postconsumer content for (~~covered~~) products or to
33 temporarily exclude types of (~~covered~~) products in plastic
34 containers from minimum postconsumer recycled content requirements.

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

36 (p) Decisions by the department of ecology under section 110(5)
37 of this act regarding a proposal by a producer responsibility
38 organization to count materials sent to an alternative recycling
39 facility towards recycling performance rates.

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

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

5 (b) Hearings conducted by the department pursuant to RCW
6 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,
7 70A.15.3110, and 90.44.180.

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

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

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

15 **Sec. 402.** RCW 43.21B.300 and 2023 c 455 s 6, 2023 c 434 s 21,
16 and 2023 c 135 s 7 are each reenacted and amended to read as follows:

17 (1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160,
18 70A.205.280, 70A.300.090, 70A.20.050, 70A.245.040, 70A.245.050,
19 70A.245.070, 70A.245.080, 70A.245.130, 70A.245.140, 70A.65.200,
20 70A.455.090, 70A.555.110, 70A.560.020, sections 123 and 211 of this
21 act, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310,
22 90.56.330, and 90.64.102 and chapter 70A.355 RCW shall be imposed by
23 a notice in writing, either by certified mail with return receipt
24 requested or by personal service, to the person incurring the penalty
25 from the department or the local air authority, describing the
26 violation with reasonable particularity. For penalties issued by
27 local air authorities, within 30 days after the notice is received,
28 the person incurring the penalty may apply in writing to the
29 authority for the remission or mitigation of the penalty. Upon
30 receipt of the application, the authority may remit or mitigate the
31 penalty upon whatever terms the authority in its discretion deems
32 proper. The authority may ascertain the facts regarding all such
33 applications in such reasonable manner and under such rules as it may
34 deem proper and shall remit or mitigate the penalty only upon a
35 demonstration of extraordinary circumstances such as the presence of
36 information or factors not considered in setting the original
37 penalty.

38 (2) Any penalty imposed under this section may be appealed to the
39 pollution control hearings board in accordance with this chapter if

1 the appeal is filed with the hearings board and served on the
2 department or authority 30 days after the date of receipt by the
3 person penalized of the notice imposing the penalty or 30 days after
4 the date of receipt of the notice of disposition by a local air
5 authority of the application for relief from penalty.

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

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

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

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

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

25 (5) All penalties recovered shall be paid into the state treasury
26 and credited to the general fund except those penalties imposed
27 pursuant to RCW 18.104.155, which shall be credited to the
28 reclamation account as provided in RCW 18.104.155(7), RCW
29 70A.15.3160, the disposition of which shall be governed by that
30 provision, RCW 70A.245.040 (~~and~~), 70A.245.050, and section 211 of
31 this act, which shall be credited to the recycling enhancement
32 account created in RCW 70A.245.100, RCW 70A.300.090, 70A.555.110, and
33 70A.560.020, which shall be credited to the model toxics control
34 operating account created in RCW 70A.305.180, RCW 70A.65.200, which
35 shall be credited to the climate investment account created in RCW
36 70A.65.250, RCW 90.56.330, which shall be credited to the coastal
37 protection fund created by RCW 90.48.390, (~~and~~) RCW 70A.355.070,
38 which shall be credited to the underground storage tank account
39 created by RCW 70A.355.090, and chapter 70A.--- RCW (the new chapter

1 created in section 501 of this act), which shall be credited to the
2 recycling enhancement account created in RCW 70A.245.100.

3 NEW SECTION. **Sec. 403.** AUTHORITY OF UTILITIES AND
4 TRANSPORTATION COMMISSION. Nothing in this chapter or chapter 70A.---
5 RCW (the new chapter created in section 502 of this act) changes or
6 limits the authority of the Washington utilities and transportation
7 commission to regulate collection of solid waste, including curbside
8 collection of residential recyclable materials, in accordance with
9 chapter 81.77 RCW.

10 NEW SECTION. **Sec. 404.** LITTER TAX STUDY. (1) In consultation
11 with producer responsibility organizations registered with the
12 department of ecology under chapter 70A.--- RCW (the new chapter
13 created in section 501 of this act), the department of ecology and
14 the department of revenue must study:

15 (a) The impacts of producer requirements under chapter 70A.---
16 RCW (the new chapter created in section 501 of this act) on the
17 litter rates of covered products under that chapter; and

18 (b) Possible improvements to the structure of the litter tax
19 under chapter 82.19 RCW including administration, compliance, and
20 distribution of the tax and application of the tax to certain
21 products, for achieving the purpose of chapter 82.19 RCW. The
22 improvements to the structure of the litter tax to be studied under
23 this section may not include an increase in the rate of the litter
24 tax under chapter 82.19 RCW or an expansion of the types of covered
25 products under chapter 70A.--- RCW (the new chapter created in
26 section 501 of this act) that are subject to the litter tax.

27 (2) By January 1, 2029, the department of ecology, in
28 consultation with the department of revenue, must provide
29 recommendations to the appropriate committees of the legislature on:

30 (a) Applicability of the litter tax to covered products, based on
31 whether the purpose of the litter tax under chapter 82.19 RCW is
32 being achieved for those products by the requirements of producers
33 under chapter 70A.--- RCW (the new chapter created in section 501 of
34 this act); and

35 (b) Improvements to the structure of the litter tax for meeting
36 the purposes of chapter 82.19 RCW.

37 (3) This section expires July 1, 2029.

