
HOUSE BILL 1420

State of Washington

69th Legislature

2025 Regular Session

By Representative Reeves

1 AN ACT Relating to establishing producer responsibility for
2 textiles; reenacting and amending RCW 43.21B.110 and 43.21B.300;
3 adding a new chapter to Title 70A RCW; and prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** The intent of this chapter is to establish
6 a statewide extended producer responsibility program for apparel and
7 textile articles that emphasizes repair and reuse, and minimizes
8 generation of hazardous waste, generation of greenhouse gases,
9 environmental impacts, environmental justice impacts, and public
10 health impacts.

11 NEW SECTION. **Sec. 2.** The definitions in this section apply
12 throughout this chapter unless the context clearly requires
13 otherwise.

14 (1)(a) "Apparel" means clothing and accessory items intended for
15 regular wear or formal occasions and outdoor activities.

16 (b) "Apparel" includes undergarments, shirts, pants, skirts,
17 dresses, overalls, bodysuits, costumes, vests, dancewear, suits,
18 saris, scarves, tops, leggings, school uniforms, leisurewear,
19 athletic wear, sports uniforms, swimwear, formal wear, onesies, bibs,
20 footwear, handbags, backpacks, knitted and woven accessories,

1 jackets, coats, snow pants, ski pants, and everyday uniforms for
2 workwear.

3 (c) "Apparel" does not include any of the following:

4 (i) Personal protective equipment worn to protect the wearer from
5 health or environmental hazards;

6 (ii) Personal protective equipment or clothing items for use by
7 the United States military; or

8 (iii) Reusable products designed to collect and absorb urine and
9 feces, or reusable products regulated by the United States food and
10 drug administration that are designed to collect and absorb
11 menstruation or vaginal discharge.

12 (2) "Authorized collector" means a person or entity that has
13 entered into an agreement with a producer responsibility organization
14 to collect covered products.

15 (3) "Authorized sorter" means a person or entity that has entered
16 into an agreement with a producer responsibility organization to sort
17 covered products collected by authorized collectors.

18 (4) "Brand" means a trademark, including both a registered
19 trademark and an unregistered trademark, a logo, a name, a symbol, a
20 word, an identifier, or a traceable mark that identifies a covered
21 product and identifies the owner or licensee of the brand.

22 (5) "Collection box" means an unattended container, box,
23 receptacle, or similar device used for soliciting and collecting
24 donations of covered products, including apparel or textile articles.

25 (6) "Collection site" means a permanent or temporary location
26 operated by an authorized collector at which covered products are
27 collected and prepared for transport in accordance with the
28 requirements of this chapter.

29 (7) "Consumer" means an owner of a covered product, including a
30 person, business, corporation, limited partnership, nonprofit
31 organization, or governmental entity, and includes the ultimate
32 purchaser, owner, or lessee of a covered product who is not, as to
33 that covered product, the distributor, importer, producer, recycler,
34 retailer, or producer responsibility organization.

35 (8) "Covered product" means an apparel or textile article
36 introduced into the state.

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

38 (10) "Distributor" means a company that has a contractual
39 relationship with one or more producers to market and sell covered
40 products to a retailer.

1 (11) "Importer" means either:

2 (a) A person qualifying as an importer of record for purposes of
3 19 U.S.C. Sec. 1484(a)(2)(B), as it existed as of January 1, 2025,
4 with regard to the import of a covered product that is sold,
5 distributed for sale, or offered for sale in or into the state that
6 was manufactured or assembled by a company outside of the United
7 States; or

8 (b) A person importing into the state for sale, distributing for
9 sale, or offering for sale in the state a covered product for use in
10 the state that was manufactured or assembled by a company physically
11 located outside of the state.

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

14 (13) "Local jurisdiction" means a county, city, or other
15 political subdivision of the state that provides solid waste
16 collection services.

17 (14) "Mail-back program" means a method of collecting covered
18 products using prepaid, preaddressed, mailing envelopes, boxes, or
19 other means that are reusable, recyclable, or compostable.

20 (15) "Needs assessment" means a needs assessment prepared under
21 section 5 of this act.

22 (16) "Online marketplace" means a consumer-directed,
23 electronically accessed platform for which all of the following are
24 true:

25 (a) The platform includes features that allow for, facilitate, or
26 enable third-party sellers to engage in the sale, purchase, payment,
27 storage, shipping, or delivery of a covered product in this state;

28 (b) The features described in (a) of this subsection are used by
29 third-party sellers; and

30 (c) The platform has a contractual relationship with consumers
31 governing their use of the platform to purchase consumer products.

32 (17)(a) "Producer" means:

33 (i) A person who manufactures a covered product and owns or is
34 the licensee of the brand or trademark under which that covered
35 product is introduced in or into the state;

36 (ii) If there is no person in Washington who is the producer for
37 purposes of (a)(i) of this subsection, the producer of the covered
38 product is the owner of a brand or trademark or, if the owner is not
39 in the state, the exclusive licensee of a brand or trademark under
40 which the covered product is sold, imported for sale, offered for

1 sale, or distributed for sale in or into the state, regardless of
2 whether the trademark is registered. For purposes of this subsection,
3 an exclusive licensee is a person holding the exclusive right to use
4 a trademark or brand in the state in connection with the manufacture,
5 sale, or distribution for sale in or into the state of the covered
6 product;

7 (iii) If there is no person in the state who is the producer for
8 purposes of (a)(i) or (ii) of this subsection, then the producer of
9 the covered product is the person that imports the covered product
10 into the state for sale or distribution;

11 (iv) If there is no other person in the state who is the producer
12 for purposes of (a)(i), (ii), or (iii) of this subsection, the
13 producer of the covered product is the distributor, retailer, or
14 wholesaler who sells the product in or into the state; or

15 (v) A person is the "producer" of a covered material introduced
16 in or into this state, as defined in (a)(i) through (iv) of this
17 subsection, except where another person has mutually signed an
18 agreement with a producer as defined in (a)(i) through (iv) of this
19 subsection that contractually assigns responsibility to the person as
20 the producer, and the person has joined a registered producer
21 responsibility organization as the responsible producer for that
22 covered material under this chapter. If another person is assigned
23 responsibility as the producer under this subsection, the producer
24 under (a)(i) through (v) of this subsection must provide written
25 certification of that contractual agreement to the producer
26 responsibility organization; (b) For purposes of this chapter, the
27 sale of a covered product must be deemed to occur in the state if the
28 covered product is delivered to the customer in the state;

29 (c) "Producer" does not include:

30 (i) A seller that sells only secondhand covered products;

31 (ii)(A) A seller with less than \$1,000,000 in annual aggregate
32 global turnover as annually adjusted for inflation. The department
33 must use the consumer price index for urban wage earners to calculate
34 the annual rate of inflation adjustment effective January 1st of each
35 year.

36 (B) The aggregate global turnover of a producer must be
37 calculated by adding together the respective turnovers of all of the
38 following:

39 (I) The producer concerned;

1 (II) Those entities in which the producer is concerned directly
2 or indirectly, through ownership of more than one-half of the capital
3 or business assets, through the power to exercise more than one-half
4 of the voting rights, through the power to appoint more than one-half
5 of the members of the supervisory board, the administrative board, or
6 bodies legally representing the undertakings, or through the right to
7 manage the entities' affairs;

8 (III) Those entities that have the rights or powers identified in
9 (c)(ii)(B)(II) of this subsection;

10 (IV) Those entities in which an entity referred to in
11 (c)(ii)(B)(III) of this subsection has the rights or powers listed in
12 (c)(ii)(B)(II) of this subsection; or

13 (V) Those entities in which two or more entities referred to in
14 (c)(ii)(B)(I) through (IV) of this subsection jointly have the rights
15 or powers listed in (c)(ii)(B) of this subsection.

16 (18) "Producer responsibility organization" means:

17 (a) An organization that is exempt from taxation under section
18 501(c)(3) of the federal internal revenue code of 1986, is formed for
19 the purpose of implementing a plan to meet the requirements of this
20 chapter, and is approved by the department; or

21 (b) A producer that registers with the department as a producer
22 responsibility organization and implements an individual plan
23 addressing the covered products of the producer.

24 (19) "Plan" means the plan developed by the producer
25 responsibility organization for the collection, transportation,
26 repair, recycling, and safe and proper management of covered products
27 under this chapter containing the contents specified in section 6 of
28 this act and submitted to the department for approval under section 7
29 of this act.

30 (20) "Repair" means any alteration or improvement of damaged
31 covered product deemed worth the cost of repair by criteria
32 established by the plan including, but not limited to:

33 (a) Redesigning and repurposing;

34 (b) Mending rips, holes, seams, or hems;

35 (c) Removing and repairing surface damage, such as pilling, stain
36 removal, or abrasion;

37 (d) Securing and reattaching buttons and other fastenings;

38 (e) Dyeing, redyeing, overdyeing, or printing of images on
39 covered products; or

40 (f) Preparation for reuse and resale.

1 (21) "Responsible market" means an entity that:

2 (a) First produces and sells, transfers, or uses recycled product
3 or recycled content feedstock that meets the quality standards
4 necessary to be used in the creation of new or reconstituted
5 products;

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

9 (c) If the market operates in the state, manages waste according
10 to the state's solid waste management hierarchy established in RCW
11 70A.205.005(8); and

12 (d) Meets the minimum operational standards adopted under a
13 producer responsibility organization plan to protect the environment,
14 public health, worker health and safety, and minimize adverse impacts
15 to socially vulnerable populations.

16 (22) "Responsible producer" means a producer that is not excluded
17 under subsection (16)(c) of this section.

18 (23) "Retailer" means a person who sells or offers for sale a
19 covered product in or into the state to a person through any means
20 including, but not limited to, sales outlets, catalogs, the
21 telephone, the internet, or any electronic means.

22 (24) "Reuse" means the resale of a collected covered product to a
23 consumer for its original intended use with or without repair.

24 (25) "Secondhand covered product" means any covered product that
25 has previously been owned by a consumer.

26 (26) "Secondhand markets" means a retailer who sells secondhand
27 covered products including, but not limited to, thrift stores,
28 collection box operators, online resale platforms, and flea markets.

29 (27) "Socially vulnerable population" includes:

30 (a) Any person residing in a census tract that contains a high
31 overall social vulnerability index as measured using the United
32 States center for disease control's and the agency for toxic
33 substances and disease registry's social vulnerability index, as it
34 existed as of January 1, 2025, for the most recent year such data are
35 available; and

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

1 (28) (a) "Textile article" means an item customarily used in
2 households or businesses that are made entirely or primarily from a
3 natural, artificial, or synthetic fiber, yarn, or fabric. For
4 purposes of this chapter, "textile article" includes blankets,
5 curtains, fabric window coverings, knitted and woven accessories,
6 towels, tapestries, bedding, tablecloths, napkins, linens, and
7 pillows.

8 (b) "Textile article" does not include single-use products
9 including paper towels, paper napkins, toilet paper, facial tissue,
10 or wet or dry wipes.

11 (29) "Third-party seller" means a person or entity, independent
12 of an online marketplace, who sells, offers to sell, or contracts
13 with an online marketplace to sell a consumer product in the state by
14 or through an online marketplace.

15 NEW SECTION. **Sec. 3.** (1) By January 1, 2027, each producer of a
16 covered product must register with the department as a producer
17 responsibility organization, or join a producer responsibility
18 organization that registers on behalf of its member producers with
19 the department. The application of a producer responsibility
20 organization must describe how the producer responsibility
21 organization meets the registration requirements of this section. If
22 registration applications for more than one producer responsibility
23 organization, other than individual producers registering as producer
24 responsibility organizations, are submitted to the department, the
25 department must determine and register the proposed producer
26 responsibility organization that can most effectively implement this
27 chapter.

28 (2) The department must, by March 1, 2027, approve a producer
29 responsibility organization that meets the requirements of this
30 chapter and:

31 (a) The producer responsibility organization has a governing
32 board consisting of producers that are diverse in size and type and
33 that represent the diversity of covered products placed in the market
34 by those entities. The governing board may include ex officio members
35 involved in the collection, sorting, repair, reuse, recycling, or
36 management of covered products; and

37 (b) The producer responsibility organization demonstrates that it
38 has adequate financial responsibility and financial controls in

1 place, including fraud prevention measures and an audit schedule, to
2 ensure proper management of funds.

3 (3) After January 1, 2036, the department may determine that an
4 additional producer responsibility organization would be beneficial
5 in satisfying the requirements of this chapter, and may approve the
6 registration of additional producer responsibility organizations that
7 meet the requirements of this chapter and that:

8 (a) Submits to the department, and agrees to cover the
9 department's reasonable costs to review, a petition to establish a
10 new producer responsibility organization;

11 (b) Is composed of a sufficient number of producers to jointly
12 comply with the requirements of this chapter; and

13 (c) The proposed producer responsibility organization agrees to
14 cover the costs of all of the provisions of this chapter applicable
15 to the proposed producer responsibility organization and its
16 participant producers.

17 (4) The requirements of subsections (2)(a) and (b) and (3)(a),
18 (b), and (c) of this subsection do not apply to producers registering
19 with the department as a producer responsibility organization. The
20 department may require an individual producer registering with the
21 department as a producer responsibility organization to pay
22 incremental costs to the department under this chapter associated
23 with the registration of the individual producer as a producer
24 responsibility organization.

25 (5) Each producer covered under a producer responsibility
26 organization must register with that producer responsibility
27 organization in accordance with the procedures and requirements
28 established by that producer responsibility organization and must
29 comply with those procedures and requirements.

30 (6) Upon the approval of a plan under this chapter or by July 1,
31 2031, whichever is sooner, a producer is subject to penalties under
32 this chapter unless:

33 (a) The producer is a participant of a producer responsibility
34 organization whose registration has been approved by the department
35 or the producer has received registration approval from the
36 department as a producer responsibility organization; and

37 (b) (i) For producers that have joined a producer responsibility
38 organization, all covered products are accounted for in the plan; or

1 (ii) For producers that are registered as a producer
2 responsibility organization, all covered products of the producer are
3 accounted for in the plan; and

4 (c) If an entity does not meet the definition of a producer and
5 is not subject to this chapter before January 1, 2031, but at any
6 point, after January 1, 2031, meets the definition of a producer, the
7 producer must, within 90 days, become a participant of the producer
8 responsibility organization or register with the department as a
9 producer responsibility organization, and comply with the
10 requirements of this chapter.

11 (7) A producer is not in compliance with this chapter and is
12 subject to penalties under section 14 of this act if a covered
13 product sold or offered for sale by the producer is not subject to an
14 approved producer responsibility organization plan.

15 (8)(a) No later than 30 days after the effective date of rules
16 adopted by the department to implement this chapter, each producer or
17 the producer responsibility organization must provide the department,
18 in a form and manner established by the department, a list of brands
19 of covered products that each producer sells, distributes for sale,
20 imports for sale, or offers for sale in or into the state;

21 (b) A producer or producer responsibility organization must
22 update the list described in (a) of this subsection and provide the
23 updated list to the department on or before January 15th of each
24 year, or upon request of the department.

25 NEW SECTION. **Sec. 4.** (1) Each producer responsibility
26 organization whose registration has been approved by the department
27 under section 3 of this act must, individually or collaboratively,
28 prepare and cover the costs of the needs assessments described in
29 section 5 of this act.

30 (2) Each producer responsibility organization must manage
31 collection sites consistent with section 9 of this act.

32 (3) Each participant of a producer responsibility organization
33 with an approved plan must comply with the requirements of this
34 chapter. The producer responsibility organization must notify the
35 department within 30 calendar days of any of the following:

36 (a) The end of any three-month period in which the producer
37 responsibility organization unsuccessfully attempted to obtain a fee,
38 records, or other information from a participant producer, or
39 received incomplete or incorrect records or information;

1 (b) The date a producer no longer participates in a producer
2 responsibility organization's plan; or

3 (c) Any instance of noncompliance by a producer.

4 (4)(a) Producers and a producer responsibility organization,
5 acting on behalf of producers that prepare, submit, and implement a
6 plan pursuant to this chapter and who are thereby subject to
7 regulation by the department, are hereby granted immunity from state
8 laws relating to antitrust, restraint of trade, unfair trade
9 practices, and other regulation of trade and commerce, for the
10 limited purpose of planning, reporting, and operating the stewardship
11 program, including:

12 (i) The creation, implementation, or management of the producer
13 responsibility organization and any plan regardless of whether it is
14 submitted, denied, or approved;

15 (ii) The cost and structure of a plan; and

16 (iii) The types or quantities of covered products being managed
17 pursuant to this chapter.

18 (b) The immunity granted in (a) of this subsection does not apply
19 to:

20 (i) Fixing a price of or for covered products, except for an
21 agreement related to costs or charges associated with participation
22 in a plan approved by the department;

23 (ii) Fixing the output or production of covered products; or

24 (iii) Restricting the geographic area in which, or customers to
25 whom, covered products will be sold.

26 NEW SECTION. **Sec. 5.** (1)(a) Each statewide needs assessment
27 carried out by a producer responsibility organization must be
28 designed to determine the necessary steps and investment needed for
29 covered products to achieve the requirements of this chapter.

30 (b) An initial needs assessment for covered products must be
31 completed prior to the completion and approval of a plan for covered
32 products under this chapter. The initial needs assessment must be
33 submitted to the department by March 1, 2028. The department must
34 review and approve, conditionally approve, or disapprove the needs
35 assessment as meeting the requirements of this section within 90 days
36 of submission.

37 (c) Needs assessments must be updated, in whole or in part, at
38 least every five years, and as necessary to ensure the requirements
39 of this chapter are met.

1 (d) A producer responsibility organization may select an
2 independent third-party contractor to complete the needs assessment.

3 (e) A producer responsibility organization may prepare more than
4 one needs assessment, with each assessment specific to one or more
5 covered products under this chapter, or may prepare one comprehensive
6 needs assessment that includes all covered products under this
7 chapter.

8 (2) Each needs assessment must comply with all of the following:

9 (a) Be designed to inform the program budget and plan; and

10 (b) Include an evaluation of all of the following with respect to
11 covered products and covered product categories:

12 (i) Existing scope and scale of annual covered products diverted
13 to landfill or incineration in the state by type of covered product,
14 material composition, and volume and annual covered product recovery
15 diverted to reuse, repair, or recycling in the state or from the
16 state by type of covered product, material composition, and volume;

17 (ii) The current repair, reuse, recycling, collection, sorting,
18 and hauling system in the state and the expanded access and
19 additional repair, reuse, recycling, collection, sorting,
20 disassembly, and hauling options needed to meet the requirements of
21 this chapter;

22 (iii) Current market conditions and the need to create
23 responsible and economically viable end markets in the state,
24 regionally, and globally;

25 (iv) Existing state statutory provisions and funding sources
26 related to market development and financial incentives to help
27 achieve the state's goals related to repair, reuse, recycling,
28 collection, sorting, disassembly, and hauling;

29 (v) Consumer education needs and the methods by which the
30 producer responsibility organization can best reach customers with
31 educational messaging;

32 (vi) Consumer behaviors to drive repair, reuse, and recycling and
33 to achieve the requirements of this chapter;

34 (vii) Funding needs and incentive mechanisms necessary to achieve
35 the requirements of this chapter, including coverage of the operation
36 of the stewardship program;

37 (viii) Fee reduction or redistribution mechanism necessary to
38 achieve the requirements of this chapter, in a manner that equitably
39 distributes the costs among participating producers that reflects
40 production and sales volumes relevant to the Washington market. Fee

1 reduction or redistribution mechanisms may consider existing producer
2 collection, repair, reuse, and recycling programs that help achieve
3 the purpose of this chapter;

4 (ix) Actions and investments necessary to provide sufficient
5 access to collection, recycling, composting, processing, and
6 transportation to responsible and economically viable end markets;

7 (x) An assessment of the availability of existing nonprofit
8 organizations that repair and upcycle covered products;

9 (xi) An evaluation of the availability or lack of availability of
10 responsible markets for recycled covered products, the need to
11 incentivize reused products or recycled material market development,
12 and the associated investments or actions needed to ensure that the
13 covered products are reused or recycled and have responsible and
14 economically viable and sufficient end markets;

15 (xii) The needs assessment must include an evaluation of the
16 factors contributing to the presence of perfluoroalkyl and
17 polyfluoroalkyl chemicals and other chemicals identified or regulated
18 under chapters 70A.350 and 70A.430 RCW, and the actions and
19 investments needed to avoid contamination related to recycling. This
20 must include available end markets for recycled material that cannot
21 be remanufactured into textiles or textile articles in Washington;
22 and

23 (xiii) Evaluate what factors will be important to successfully
24 implement the eco-modulated fee structure required by section 10 of
25 this act, and what associated data collection will be necessary as
26 part of the plan.

27 (3) The department must guide development of each needs
28 assessment. A producer responsibility organization must develop the
29 needs assessment in consultation with a broad diversity of local
30 jurisdictions, federally recognized Indian tribes, recycling service
31 providers, and processors that reflect the different needs and
32 challenges presented by managing different covered products through
33 final disposition.

34 NEW SECTION. **Sec. 6.** (1) Plans must be submitted, reviewed, and
35 approved consistent with section 7 of this act.

36 (2) Plans for covered products must be designed to accept and
37 manage all postconsumer covered products and must include all of the
38 following:

1 (a) The names and contact information, including email address,
2 phone number, and mailing and physical addresses, of producers and
3 brands of covered products under the plan;

4 (b) (i) A description of the method to establish and administer a
5 means for fully funding the producer responsibility organization,
6 consistent with section 10 of this act, including a proposed five-
7 year budget;

8 (c) Quantifiable five-year and annual performance standards and
9 metrics unless or until the department publishes performance
10 standards under section 8 of this act. The producer responsibility
11 organization must amend its plan to meet or exceed the performance
12 standards published by the department;

13 (d) A description of how the producer responsibility organization
14 will provide for a free and convenient drop-off or collection system
15 for covered products consistent with section 9 of this act;

16 (e) A description of how the collection sites will be authorized
17 and managed, including:

18 (i) How local jurisdictions and federally recognized Indian
19 tribes can request to be a collection site under section 10 of this
20 act;

21 (ii) How the producer responsibility organization will provide to
22 collection sites at no cost the appropriate containers for covered
23 products, training, signage, safety guidance, and educational
24 materials;

25 (iii) The process by which the producer responsibility
26 organization will provide for the transport of covered products at no
27 cost from collection sites to an authorized sorter, or directly to an
28 authorized repair business, nonprofit organization, or recycling
29 facility;

30 (iv) How collection sites will be allowed to divert covered
31 products to secondhand markets for reuse;

32 (v) A list of all proposed rules, conditions, and requirements
33 for authorized collectors, authorized sorters, and authorized repair
34 businesses, including a template proposed agreement for each of those
35 types of entities, as applicable;

36 (vi) How the producer responsibility organization will prioritize
37 the use of secondhand markets and nonprofit retail resellers of
38 covered products, when establishing collection sites to meet the
39 minimum requirements in section 9(2) of this act; and

1 (vii) How collection sites will be instructed to identify and
2 reject counterfeit covered products.

3 (f) A description of how covered products will be sorted,
4 transported, processed, reused, and recycled following collection at
5 collection sites, consistent with section 9 of this act;

6 (g) A description of the comprehensive statewide education and
7 outreach program designed to educate consumers and promote
8 participation in the program offered by the producer responsibility
9 organization, consistent with section 11 of this act. This
10 description must include a description of the strategies, goals, and
11 metric the producer responsibility organization will use to annually
12 assess and evaluate the efficacy of the comprehensive statewide
13 education and outreach program required by section 11 of this act;

14 (h) A description of how the producer responsibility organization
15 will coordinate with other producer responsibility organizations to
16 avoid confusion to the public regarding program activities including,
17 but not limited to, education and outreach, including establishing
18 point-of-sale messaging, a joint website, and toll-free telephone
19 number for purposes of providing information on the program;

20 (i) Coordination with and compensation for, and description of
21 the efforts and methods used to coordinate activities with and
22 compensate for, entities who are responsive to a request from the
23 producer responsibility organization, including other producer
24 responsibility organizations, existing collection, reuse, and
25 recycling programs, and community-based organizations, including
26 nonprofit retail establishments that sell reused and repaired covered
27 products, and that contact the producer responsibility organization
28 and are qualified to run or support collection events;

29 (j) A description of how the plan will address the presence of
30 perfluoroalkyl and polyfluoroalkyl chemicals and other chemicals
31 identified or regulated under chapters 70A.350 and 70A.430 RCW,
32 including but not limited to the actions and investments needed to
33 avoid contamination in the recycling process and available end
34 markets for recycled material that cannot be remanufactured into
35 textiles or textile articles in Washington;

36 (k) A description of how the producer responsibility organization
37 will minimize the negative environmental and human health impacts of
38 all operations associated with the plan, including impacts from
39 collected covered products exported outside of Washington; and

1 (1) A process by which the financial activities of the producer
2 responsibility organization or individual producers that are related
3 to implementation of the plan will be subject to an independent audit
4 consistent with generally accepted accounting principles.

5 (3) Under the plan, a producer responsibility organization must:

6 (a) Develop a program to support laundries for laundering covered
7 products that includes funding for technology that reduces water
8 consumption and improves microfiber and microplastic filtration; and

9 (b) Develop strategies to address design challenges for covered
10 products including, but not limited to, compostability, reduction and
11 removal of harmful chemicals, microfiber and microplastic shedding,
12 and mixed material blends.

13 (4) Plans approved by the department are public records for
14 purposes of chapter 42.56 RCW, except that financial or sales data
15 reported to the department is not a public record consistent with RCW
16 42.56.270, and is not subject to inspection or copying under chapter
17 42.56 RCW.

18 (5) (a) The plan submitted under this section must be accompanied
19 by a contingency plan demonstrating how the activities in the plan
20 will continue to be carried out by some other entity, if needed, such
21 as a trustee:

22 (i) Until such time as a new plan is submitted and approved by
23 the department;

24 (ii) Upon the expiration of an approved plan;

25 (iii) If the producer responsibility organization notifies the
26 department that it will cease to implement an approved plan; or

27 (iv) In any other event that the producer responsibility
28 organization can no longer carry out plan implementation.

29 (b) The contingency plan must guarantee that the contracts,
30 financial data, and other necessary authority and assets to operate
31 the program will vest in a trustee or other entity approved by the
32 department. The trustee must operate the most recently approved plan,
33 subject to the direction of the department, until such time as a new
34 plan is approved. Upon plan expiration or revocation of the plan, the
35 balance of the producer responsibility organization's operating
36 reserves must be transferred to the control of the trustee within
37 five calendar days. All documents, digital records, contracts, and
38 files related to the operation of the plan must be transferred to the
39 control of the trustee within five calendar days.

1 NEW SECTION. **Sec. 7.** (1)(a) By January 1, 2029, a producer
2 responsibility organization must develop and submit to the department
3 a complete plan, in a form and manner determined by the department,
4 in accordance with the requirements of this chapter, for the
5 collection, transportation, repair, sorting, recycling, and the safe
6 and proper management of covered products in Washington.

7 (b) (i) The department must review each submitted plan for
8 compliance with this chapter and must approve, disapprove, or
9 conditionally approve the plan within 120 days of receipt.

10 (ii) If the department disapproves of a plan submitted by a
11 producer responsibility organization, the department must explain how
12 the plan does not comply with this chapter and provide written notice
13 to the producer responsibility organization within 60 days of
14 disapproval. The producer responsibility organization may resubmit to
15 the department a revised plan within 30 days of the date the written
16 notice was issued, and the department must review the revised plan
17 within 60 days of resubmittal.

18 (iii) If the department disapproves a revised plan submitted by a
19 producer responsibility organization, the department must explain how
20 the plan does not comply with this chapter and provide written notice
21 to the producer responsibility organization within 60 days of
22 disapproval. The producer responsibility organization must then
23 revise and resubmit the plan consistent with the department's
24 direction within 30 days. A producer responsibility organization that
25 does not revise and resubmit the plan within 30 days consistent with
26 the department's direction is ineligible to submit further revisions
27 and is not in compliance with the requirements of this chapter, and
28 member producers are subject to penalties under this chapter.

29 (2) A producer responsibility organization comprised of more than
30 one member producer may not limit its plan for covered products to
31 the covered products of the producer participating in that plan.

32 (3) (a) By January 1, 2031, a producer responsibility organization
33 must have a complete plan approved by the department and each
34 producer must be subject to an approved plan in order to be in
35 compliance with this chapter.

36 (b) By April 1, 2031, each producer responsibility organization
37 must begin to implement its approved plan. By January 1, 2032, the
38 producer responsibility organization must fully implement its
39 approved plan.

1 (c) A producer responsibility organization with an approved plan
2 must submit any proposed substantial change to the plan to the
3 department for approval following the process in subsection (1) of
4 this section.

5 (4)(a) A producer responsibility organization must review its
6 plan at least every five years after approved by the department and
7 determine whether revisions are necessary.

8 (b) If a producer responsibility organization determines that
9 revisions to the plan are necessary, the producer responsibility
10 organization must submit to the department a revised plan for review
11 and approval consistent with subsections (1) through (3) of this
12 section. The producer responsibility organization must submit the
13 revised plan to the department under this subsection at least 12
14 months prior to the review deadline identified in (a) of this
15 subsection. The revised plan must include a cover letter that
16 summarizes revisions to the plan within 90 days of the review
17 deadline outlined under this subsection.

18 (c) If a producer responsibility organization determines that
19 revisions to the plan are not necessary, the producer responsibility
20 organization must send a letter to the department 12 months prior to
21 the review deadline in (a) of this subsection, explaining that the
22 producer responsibility organization has reviewed the plan and
23 determined that revisions are not needed. The department may
24 disapprove of the producer responsibility organization's
25 determination within 30 days of receipt if the department concludes
26 that the producer responsibility organization cannot implement the
27 requirements of this chapter without revising the plan. If the
28 department disapproves the producer responsibility organization's
29 determination, the producer responsibility organization must submit
30 to the department a revised plan for review and approval consistent
31 with subsections (1) through (3) of this section. The producer
32 responsibility organization must submit the revised plan under this
33 subsection within 60 days of receipt of the department's disapproval,
34 unless the department determines that additional time is needed.

35 NEW SECTION. **Sec. 8.** (1)(a) A producer of a covered product
36 introduced for use in this state must achieve the quantifiable five-
37 year and annual performance standards and metrics performance
38 standards established in its plan.

1 (b) After March 1, 2033, a producer of a covered product
2 introduced for use in this state must achieve the performance
3 standards adopted by the department under subsection (2) of this
4 section.

5 (2) After March 1, 2033, the department may establish, review,
6 and adjust performance standards and the dates by which they are
7 required to be achieved based on information included in plans and
8 annual reports, other information provided by producer responsibility
9 organizations, department waste characterization studies, needs
10 assessments, and economic and any other relevant information, as
11 determined by the department.

12 NEW SECTION. **Sec. 9.** (1)(a) A producer responsibility
13 organization must approve collection sites under its program that
14 agree to comply with all applicable state, federal, or municipal
15 laws, regulations, and rules and conditions adopted by the producer
16 responsibility organization.

17 (b) A producer responsibility organization must include as a
18 collection site under its program any local jurisdiction or federally
19 recognized Indian tribe that offers in writing to participate in the
20 program and agrees to comply with any producer responsibility
21 organization requirements that are consistent with its approved plan,
22 even if the minimum thresholds described in subsection (2) of this
23 section have been achieved. A producer responsibility organization
24 must include the local jurisdiction or federally recognized Indian
25 tribe as a collection site in the program within 90 days of receiving
26 the written offer to participate. The producer responsibility
27 organization is not required to respond to offers to participate
28 until a plan has been approved by the department.

29 (c) A producer responsibility organization may suspend or
30 terminate a collection site that does not comply with all applicable
31 state, federal, or municipal laws and regulations or adhere to the
32 rules and conditions imposed by the producer responsibility
33 organization.

34 (d) A collection site must be operated and managed to ensure that
35 covered products are collected safely and handled in accordance with
36 all applicable state, federal, and municipal laws and regulations and
37 the rules and conditions of the plan. A producer responsibility
38 organization must allow authorized collectors and authorized sorters
39 to divert reusable covered products for sale in secondhand markets,

1 in a manner consistent with rules established by the producer
2 responsibility organization in an approved plan.

3 (e) A producer responsibility organization must require all
4 contractors to pay at least the Washington minimum wage.

5 (2) A producer responsibility organization must provide for a
6 free and convenient drop-off or collection system for covered
7 products that may include temporary collection sites and mail-back
8 options, and that must include permanent collection sites in each
9 county that:

10 (a) Provides for a minimum of 10 permanent collection sites or
11 one permanent collection site per 25,000 people, whichever is
12 greater, except that:

13 (i) A county with a population of 18,000 and under, as reported
14 annually by the office of financial management, must have a minimum
15 of three collection locations;

16 (ii) A county with a population of between 18,001 and 50,000,
17 inclusive, as reported annually by the office of financial
18 management, must have a minimum of four collection locations; and

19 (iii) A county with a population of between 50,001 and 100,000,
20 inclusive, as reported annually by the office of financial
21 management, must have a minimum of eight collection locations;

22 (b) Provides for a reasonable geographic spread of permanent
23 collection sites, as justified by a description in the plan.

24 (3) Following collection at a collection site, covered products
25 must:

26 (a) Be handled and managed consistent with the waste management
27 hierarchy established in RCW 70A.205.005(8), including prioritization
28 of reuse, including repair, of collected covered products;

29 (b) Include incentive payments, grants, and market development
30 investments to encourage reuse over recycling and other methods and
31 to support the infrastructure necessary to implement the plan, which
32 must include incentive payments, grants, and market development
33 investments that prioritize infrastructure closer to the point of
34 generation under (e) of this subsection and ensure that covered
35 products are reused or recycled and have responsible and economically
36 viable end markets;

37 (c) Be sorted by authorized sorters and the flow of covered
38 products to and from authorized collectors, authorized sorters,
39 authorized repair businesses, and recyclers must be tracked through
40 final disposition;

1 (d) Be managed by the producer responsibility organization to
2 maximize the reuse and recycling of all covered products, and to
3 minimize disposal of covered products collected by the producer
4 responsibility organization; and

5 (e) Be managed by the producer responsibility organization in a
6 manner that prioritizes, to the extent feasible, the use and
7 development of sorting, repair, and recycling facilities located
8 closer to the point of collection to minimize transportation-related
9 emissions and increase accountability for the ultimate disposition of
10 covered products.

11 (4) The producer responsibility organization must conduct an
12 annual assessment, using metrics described in its plan, to determine
13 how collection, sorting, and transportation outcomes aligned with
14 projections.

15 (5) Products designed by use for infants and children under 12
16 years of age with components that pose a risk of detachment, thus
17 creating choking hazards, or containing components subject to 16
18 C.F.R. Part 1303 and 1307, including, but not limited to, metallic,
19 vinyl, or plastic snaps, zippers, grommets, closures, or appliques,
20 may be excluded from the reuse and repair under subsection (3)(a) of
21 this section by a producer responsibility organization.

22 (6) Nothing in this chapter limits the authority of the utilities
23 and transportation commission to regulate collection of solid waste,
24 including curbside collection of residential recyclable materials, in
25 accordance with chapter 81.77 RCW.

26 NEW SECTION. **Sec. 10.** (1) Each producer responsibility
27 organization must pay all administrative and operational costs
28 associated with establishing and implementing the program including,
29 but not limited to, the cost of collection, transportation, sorting,
30 repairing, recycling, and the safe and proper management of covered
31 products.

32 (2)(a) A producer responsibility organization must establish a
33 method for fully funding the producer responsibility organization in
34 a manner that distributes the program's costs among participating
35 producers. Upon plan approval, the funding mechanism approved in the
36 plan must reflect:

37 (i) Sales volumes; and

38 (ii) A per-unit eco-modulated fee that reflects Washington sales
39 volume, existing producer collection, repair, reuse, and recycling

1 programs that help achieve the purposes of this chapter, and the cost
2 of reusing, repairing, recycling, or otherwise managing covered
3 products under this chapter. The intent of the eco-modulated fee is
4 to incentivize design choices that facilitate the achievement of
5 goals outlined in the plan, including reuse, repair, and recycling
6 through reduced fees, while using malus fees to disincentivize
7 practices and materials incongruent with the plan. The producer
8 responsibility organization must consider existing producer
9 collection, repair, reuse, and recycling programs in developing the
10 eco-modulated fee structure.

11 (b) The funding mechanism must demonstrate adequate funding for
12 all administrative and operational costs of the program, to be borne
13 by participating producers, and must distribute participating
14 producers costs in consideration of the cost of managing their
15 specific covered products under the approved plan.

16 (3) (a) A producer responsibility organization must propose in its
17 plan a five-year budget that establishes a funding level sufficient
18 to operate the producer responsibility organization in a prudent and
19 responsible manner. The budget must demonstrate how estimated
20 revenues will cover all budgeted costs for each cost category, and
21 the plan must describe the types of activities related to each line
22 item cost category.

23 (b) Budgeted costs categories must include, but are not limited
24 to:

25 (i) Administrative costs, which include the department's actual
26 and reasonable regulatory costs, which include full personnel costs
27 to implement and enforce this chapter and actual regulatory
28 development costs and other startup costs incurred prior to plan
29 submittal and approval;

30 (ii) Education and outreach costs;

31 (iii) Operational costs;

32 (iv) Capital costs; and

33 (v) A reserve to operate the producer responsibility organization
34 should there be unexpected events, such as losses of income, and
35 large unbudgeted expenses in order to protect the recycling
36 infrastructure the producer responsibility organization relies upon
37 in its plan, during any lapse in producer participating during the
38 life of the program. This cost category must include a reserve level
39 amount that is justified by a description in the plan. The producer
40 responsibility organization must maintain reserve funds sufficient to

1 operate the plan for no less than six months. If a new plan submitted
2 by a producer responsibility organization is approved by the
3 department, the producer responsibility organization must establish
4 its reserve and maintain the required reserve fund balance by the end
5 of the second year of plan operation.

6 (4) Retailers, producers, or producer responsibility
7 organizations may not charge a specific point-of-sale fee to
8 consumers to cover the administrative or operational costs of the
9 producer responsibility organization or the program.

10 NEW SECTION.

Sec. 11.

(1) A producer responsibility
11 organization must develop and implement a comprehensive statewide
12 education and outreach program that, at minimum, includes:

13 (a) An education and communications strategy to effectively
14 promote participation in the program and provide the information
15 necessary for effective participation by consumers, retailers,
16 distributors, wholesalers, local jurisdictions, federally recognized
17 Indian tribes, and others;

18 (b) A joint internet website, in coordination with all other
19 producer responsibility organizations registered with the department,
20 that publicizes the location of collection sites and provides
21 information to consumers on how to drop off covered products at the
22 free and convenient network of collection sites offered by the
23 producer responsibility organization, including any information
24 reasonably necessary to safely and conveniently access the
25 collection, repair, and recycling services offered by the producer
26 responsibility organization;

27 (c) Signage that is prominently displayed and easily visible;

28 (d) Signage and materials that are required by the producer
29 responsibility organization for collection sites, and a method for
30 collection sites to access replacement materials at no cost to the
31 collection site;

32 (e) A strategy to support participation by all Washington
33 communities, including a strategy to communicate with consumers in
34 languages other than English;

35 (f) Promotional materials and activities, or both, that explain
36 the purpose of the producer responsibility organization and the means
37 by which the program is being carried out;

38 (g) A strategy to encourage users to separate products that are
39 not covered products from covered products, when appropriate, before

1 submitting the covered products to an authorized collection site or
2 mail-back program;

3 (h) Materials designed to inform third-party sellers on online
4 platforms of their duty to comply with this chapter and how to join
5 the producer responsibility organization; and

6 (i) Information for the public on secondhand markets and the
7 benefits of reuse, including repair.

8 (2) The statewide education and outreach program must:

9 (a) Promote the safe and proper management of covered products,
10 including information on where customers can purchase repaired and
11 reused covered products. This must include education and training for
12 authorized collectors to incentivize domestic resale of usable
13 covered products;

14 (b) Not promote the disposal of covered products in a manner
15 inconsistent with the services offered by the plan; and

16 (c) Include information for consumers about how to avoid improper
17 disposal of covered products.

18 NEW SECTION. **Sec. 12.** (1)(a) A producer responsibility
19 organization must keep board minutes books, and records that clearly
20 reflect the activities and transactions of the producer
21 responsibility organization.

22 (b) A producer responsibility organization must include in its
23 plan a process by which the financial activities of the organization
24 or individual producers that are related to implementation of the
25 plan will be subject to an independent audit consistent with
26 generally accepted accounting principles.

27 (c) The failure of a producer responsibility organization or
28 producer, or their respective agent who holds records, to produce
29 documents or data requested by the department, required to be
30 collected or generated to carry out operation of the plan in the form
31 and manner determined by the department, as part of a department
32 audit, or review of a third-party audit, constitutes a violation of
33 this chapter.

34 (d) A producer responsibility organization must retain an
35 independent public accountant, certified in the United States, to
36 annually audit the accounting books of the producer responsibility
37 organization. The department must review the independent certified
38 public accountant audit for compliance with this chapter and
39 consistency with the producer responsibility organization's plan and

1 annual report. After the department conducts its own audit, the
2 department must notify the producer responsibility organization of
3 any conduct or practice that does not comply with this chapter or of
4 any inconsistencies identified in the audit. The producer
5 responsibility organization may obtain copies of the department's
6 audit, including proprietary information contained in the
7 department's audit, upon request and may petition the department to
8 withhold from disclosure confidential proprietary information under
9 chapter 42.56 RCW. The items submitted to the department as part of
10 the independent audit must include:

11 (i) Financial statements audited in accordance with generally
12 accepted accounting principles;

13 (ii) An audit of the producer responsibility organization's
14 compliance with this chapter; and

15 (iii) An audit of the producer responsibility organization's
16 adherence to, execution of, and consistency with its plan.

17 (2) A producer responsibility organization must annually submit
18 to the department, in the form and manner and by the date determined
19 by the department, an annual report and make that report publicly
20 available on the producer responsibility organization's website. The
21 report must include, at minimum, all of the following information for
22 the preceding calendar year unless otherwise specified:

23 (a) The independent audit required under subsection (1)(d) of
24 this section;

25 (b) The producer responsibility organization's costs, according
26 to the cost categories established in the plan, and revenues;

27 (c) A summary of any anticipated changes to allocations in cost
28 categories for the next calendar year;

29 (d) Any changes to the distribution of a participating producer's
30 costs;

31 (e) The amounts of the eco-modulated fees based on the criteria
32 established under section 10(2) of this act and the producer
33 responsibility organization's evaluation of the effectiveness of the
34 eco-modulated fees;

35 (f) An updated list of producers participating in the plan and an
36 updated list of the names and contact information, including email
37 address, telephone number, and physical and mailing addresses of
38 producer and brands of covered products covered under the plan;

39 (g) A list of the producer responsibility organization's
40 collection sites by name, location, and type;

1 (h) (i) The amount of covered products sold in or into the state
2 by the producers covered by the producer responsibility
3 organization's plan;

4 (ii) The amount described in (h) (i) of this subsection must be
5 broken down by fiber type category and harmonized tariff schedule of
6 the United States (HTS) number;

7 (i) The total weight of covered products, respectively, that were
8 collected, broken down by fiber type categories;

9 (j) The total weight of covered products, by category, that were
10 collected and deemed reusable by each respective authorized collector
11 and authorized sorter;

12 (k) A list of each authorized sorter, authorized repair business,
13 and covered product recycling facility used by the producer
14 responsibility organization, including name and location and the
15 total weight of covered products handled by each location;

16 (l) The total weight and number of covered products sold in or
17 into the state attributed to a producer, who is a registered
18 participant of the producer responsibility organization's plan, which
19 are collected in the state and reused or recycled by the producer
20 responsibility organization, including a description of the
21 methodology and information used to determine and calculate these
22 values;

23 (m) A complete accounting of the ultimate disposition of all
24 covered products collected by the producer responsibility
25 organization, including the total weight of covered products that
26 were repaired or recycled;

27 (n) Metrics and a description of the progress towards attaining
28 the performance standards included in the plan;

29 (o) A description of the methods used to collect, transport,
30 repair, and recycle covered products by the producer responsibility
31 organization, including a description of:

32 (i) How the producer responsibility organization handled and
33 managed covered products according to the waste hierarchy in RCW
34 70A.205.005(8);

35 (ii) How the producer responsibility organization maximized reuse
36 and recycling of all covered products;

37 (iii) How the producer responsibility organization minimized
38 disposal of all covered products collected by the producer
39 responsibility organization; and

1 (iv) Results of the producer responsibility organization's
2 assessment of the efficacy of the collection, sorting, and
3 transportation process;

4 (p) A description of how the producer responsibility organization
5 provided incentive payments, grants, and market development
6 investments to support the infrastructure necessary to effectively
7 implement the plan, including how incentive payments, grants, and
8 market development investments prioritized infrastructure closer to
9 the point of generation;

10 (q) A description of outreach efforts and education including,
11 but not limited to, the producer responsibility organization's
12 evaluation of the efficacy of the comprehensive statewide education
13 and outreach program in section 11 of this act;

14 (r) A description of how the producer responsibility organization
15 coordinated with producer responsibility organizations;

16 (s) A report on activities the producer responsibility
17 organization has undertaken to prioritize the use of sorting and
18 recycling facilities located closer to the point of generation to
19 minimize transportation emissions and increase accountability for the
20 ultimate disposition of collected covered products;

21 (t) An analysis of whether producer responsibility organization
22 met performance standards established by the producer responsibility
23 organization or by the department under section 8 of this act;

24 (u) A description of how the producer responsibility organization
25 addressed the presence of perfluoroalkyl and polyfluoroalkyl
26 chemicals and other chemicals identified or regulated under chapters
27 70A.350 and 70A.430 RCW, including but not limited to the actions
28 taken and investments made to avoid contamination in the recycling
29 process, and the availability of end markets for recycled material
30 that could not be remanufactured into textiles or textile articles in
31 Washington;

32 (v) Any other information deemed relevant by the producer
33 responsibility organization for the department to determine
34 compliance with the approved plan; and

35 (w) Other information required by rules adopted by the
36 department.

37 (3) (a) No later than 120 days after the date the department
38 receives the annual report submitted by a producer responsibility
39 organization under subsection (2) of this section, the department

1 must notify the producer responsibility organization if the annual
2 report is compliant or noncompliant.

3 (b) If the department determines that the annual report is
4 noncompliant due to failure to meet the requirements of this chapter,
5 the department may require the resubmittal of the annual report or
6 take enforcement action.

7 NEW SECTION. **Sec. 13.** (1)(a) The department must implement,
8 administer, and enforce this chapter. By December 31, 2027, the
9 department shall adopt rules as necessary to implement, administer,
10 and enforce this chapter.

11 (b) To the extent feasible, registration, recordkeeping,
12 reporting, and other logistical requirements adopted by the
13 department under this chapter must be harmonized with similar
14 requirements applicable to producers in other jurisdictions.

15 (c) The rules adopted by the department must encourage recycling
16 that minimizes generation of hazardous waste, generation of
17 greenhouse gases, environmental impacts, environmental justice
18 impacts, and public health impacts.

19 (2)(a) By October 1, 2026, the department must notify each
20 registered producer responsibility organization of its estimated
21 regulatory costs to implement the program, including full personnel
22 costs, related to implementing and enforcing this chapter and the
23 actual reasonable costs associated with adopting rules and other
24 startup activities prior to plan submittal and approval.

25 (b) The producer responsibility organization must, on a schedule
26 determined by the department, pay the department fees to cover the
27 department's incurred costs. The fees must not exceed the
28 department's actual and reasonable regulatory costs to implement and
29 enforce this chapter.

30 (c) The department must deposit all moneys received from a
31 producer responsibility organization under this subsection in the
32 textile extended producer responsibility account created in section
33 17 of this act.

34 (3) The department may audit the producer responsibility
35 organization or an individual producer annually with respect to the
36 requirements of this chapter.

37 (4)(a) Within 12 months of the effective date of the rules
38 adopted under this chapter, and on or before July 1st of each year
39 thereafter, the department must post on its internet website a list

1 of producers that are in compliance with this chapter. The department
2 must list, as appropriate, the reported brands of covered products
3 for each producer.

4 (b) A producer that is not listed on the department's internet
5 website under (a) of this subsection that demonstrates compliance
6 with this chapter before the next list is posted by the department
7 may either be added to the internet website or provided a
8 certification letter from the department stating that the producer of
9 a covered product is in compliance with this chapter. The
10 department's list of compliant entities must be available on the
11 department's website in a machine-readable format.

12 (c) If the department determines that a producer is not in
13 compliance with this chapter, the department must remove the
14 producer, along with its brands and covered products, from the list
15 of compliant producers posted on the department's website. The
16 department must list on its internet website a producer, along with
17 its brands and covered products, if the department subsequently
18 determines that the producer is in compliance with this chapter.

19 NEW SECTION.

Sec. 14.

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

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

32 (2) (a) The department may administratively impose a civil penalty
33 of up to \$10,000 per violation per day on any producer responsibility
34 organization that violates this chapter and up to \$50,000 per
35 violation per day for the second and each subsequent violation.

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

1 (i) Issue a corrective action order to a producer responsibility
2 organization;

3 (ii) Issue an order to a producer responsibility organization to
4 provide for the continued implementation of the program in the
5 absence of an approved plan;

6 (iii) Revoke the producer responsibility organization's plan
7 approval and require implementation of the contingency plan; or

8 (iv) Require a producer responsibility organization to revise or
9 resubmit a plan within a specified time frame.

10 (c) Prior to taking an action described in this subsection, the
11 department must provide the producer responsibility organization an
12 opportunity to respond to or rebut the written finding upon which the
13 action is predicated.

14 (3) (a) The department may require a producer, producer
15 responsibility organization, manufacturer, distributor, retailer, or
16 importer to:

17 (i) Provide the department with reasonable and timely access, as
18 determined by the department, to its facilities and operations, as
19 necessary to determine compliance with this chapter; or

20 (ii) Require additional reporting to determine compliance with
21 this chapter.

22 (b) Records required by this chapter must be maintained and
23 accessible for five years. All reports and records provided to the
24 department under this chapter must be provided under penalty of
25 perjury.

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

30 (a) The department shall serve, or send with delivery
31 confirmation, a written warning explaining the violation to a person
32 distributing or selling covered products of a producer that is not in
33 compliance with this chapter.

34 (b) The department may assess a penalty on a person that
35 continues to sell or distribute covered products of a producer that
36 is in violation of this chapter 60 days after receipt of the written
37 warning under this subsection. The amount of the penalty that the
38 department may assess under this subsection is twice the value of the
39 covered products sold in violation of this chapter or \$500, whichever
40 is greater. The department must waive the penalty upon verification

1 that the person has discontinued distribution or sales of the covered
2 product within 30 days of the date the penalty is assessed.

3 (5) Any person who incurs a penalty or receives an order may
4 appeal the penalty or order to the pollution control hearings board
5 created in chapter 43.21B RCW.

6 (6) Penalties levied under this section must be deposited in the
7 model toxics control operating account created in RCW 70A.305.180.

8 NEW SECTION. **Sec. 15.** (1) Retailers, importers, distributors,
9 and online marketplaces for covered products must monitor the
10 department's internet website where compliant producers are posted
11 under section 13(4) of this act, to determine if a producer, brand,
12 or covered product is in compliance with this chapter for that
13 producer of covered products.

14 (2) (a) Except as provided in (b) of this subsection, on and after
15 the date a plan is approved by the department, a retailer, importer,
16 distributor, or online marketplace is prohibited from introducing a
17 covered product for use in the state unless the producer of the
18 covered product is listed as in compliance for that brand and covered
19 product.

20 (b) A retailer, importer, distributor, or online marketplace may
21 introduce a covered product:

22 (i) If the retailer, importer, distributor, or online marketplace
23 has fulfilled the obligations for those covered products which the
24 retailer, importer, distributor, or online marketplace sells, offers
25 for sale, imports, or distributes;

26 (ii) If, on the date the retailer or distributor sells or offers
27 for sale the covered product in or into the state, the producer,
28 brand, or covered product was listed as compliant on the department's
29 internet website; and

30 (iii) Any existing stock of a retailer or distributor before the
31 initial list was posted by the department on the department's
32 internet website.

33 (3) An online marketplace must annually do the following
34 consistent with rules adopted by the department:

35 (a) Notify the department and the producer responsibility
36 organization of all third-party sellers with sales of covered
37 products over \$1,000,000 sold on their online marketplace in the
38 preceding year and provide all required information. If a third-party
39 seller does not have any sales in Washington during the preceding

1 year, then the online marketplace must not provide their information
2 to the department. The amount of the sales described in this
3 subsection includes only those transactions through the online
4 marketplace for which payment is processed by the online marketplace
5 directly or through its payment processor;

6 (b) Provide all third-party sellers described in (a) of this
7 subsection with the information requirements of law as provided by
8 the producer responsibility organization consistent with the
9 requirements of section 11 of this act.

10 NEW SECTION. **Sec. 16.** A producer responsibility organization
11 may not use funds collected for purposes of implementing a plan
12 required under this chapter associated with:

13 (1) The payment of an administrative penalty levied;
14 (2) Administrative appeals of orders or penalties;
15 (3) Litigation between the refrigerant stewardship organization
16 and the state;

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

21 (5) Paid advertisements related to encouraging the passage,
22 defeat, 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 NEW SECTION. **Sec. 17.** The textile extended producer
26 responsibility account is created in the custody of the state
27 treasurer. All receipts received by the department under this chapter
28 must be deposited in the account. Only the director of the department
29 or the director's designee may authorize expenditures from the
30 account. The account is subject to the allotment procedures under
31 chapter 43.88 RCW, but an appropriation is not required for
32 expenditures. Expenditures from the account may be used by the
33 department only for implementing, administering, and enforcing the
34 requirements of this chapter.

35 **Sec. 18.** RCW 43.21B.110 and 2024 c 347 s 5, 2024 c 340 s 4, and
36 2024 c 339 s 16 are each reenacted and amended to read as follows:

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

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

17 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
18 18.104.130, 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.15.4530,
19 70A.15.6010, 70A.205.280, 70A.214.140, 70A.300.120, 70A.350.070,
20 70A.245.020, 70A.65.200, 70A.505.100, 70A.555.110, 70A.560.020,
21 70A.565.030, section 14 of this act, 86.16.020, 88.46.070, 90.03.665,
22 90.14.130, 90.46.250, 90.48.120, 90.48.240, 90.56.330, and 90.64.040.

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

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

37 (e) Decisions of local health departments regarding the issuance
38 and enforcement of permits to use or dispose of biosolids under RCW
39 70A.226.090.

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

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 as provided in
9 RCW 90.64.028.

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

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

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

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

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

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

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

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

37 (2) The following hearings shall not be conducted by the hearings
38 board:

39 (a) Hearings required by law to be conducted by the shorelines
40 hearings board pursuant to chapter 90.58 RCW, except where appeals to

1 the pollution control hearings board and appeals to the shorelines
2 hearings board have been consolidated pursuant to RCW 43.21B.340.

3 (b) Hearings conducted by the department pursuant to RCW
4 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,
5 70A.15.3110, and 90.44.180.

6 (c) Appeals of decisions by the department under RCW 90.03.110
7 and 90.44.220.

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

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

13 **Sec. 19.** RCW 43.21B.300 and 2024 c 347 s 6 and 2024 c 340 s 5
14 are each reenacted and amended to read as follows:

15 (1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160,
16 70A.205.280, 70A.230.080, 70A.300.090, 70A.20.050, 70A.245.040,
17 70A.245.050, 70A.245.070, 70A.245.080, 70A.245.130, 70A.245.140,
18 70A.65.200, 70A.430.070, 70A.455.090, 70A.500.260, 70A.505.110,
19 70A.555.110, 70A.560.020, 70A.565.030, section 14 of this act,
20 86.16.081, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310,
21 90.56.330, and 90.64.102 and chapter 70A.355 RCW shall be imposed by
22 a notice in writing, either by certified mail with return receipt
23 requested or by personal service, to the person incurring the penalty
24 from the department or the local air authority, describing the
25 violation with reasonable particularity. For penalties issued by
26 local air authorities, within 30 days after the notice is received,
27 the person incurring the penalty may apply in writing to the
28 authority for the remission or mitigation of the penalty. Upon
29 receipt of the application, the authority may remit or mitigate the
30 penalty upon whatever terms the authority in its discretion deems
31 proper. The authority may ascertain the facts regarding all such
32 applications in such reasonable manner and under such rules as it may
33 deem proper and shall remit or mitigate the penalty only upon a
34 demonstration of extraordinary circumstances such as the presence of
35 information or factors not considered in setting the original
36 penalty.

37 (2) Any penalty imposed under this section may be appealed to the
38 pollution control hearings board in accordance with this chapter if
39 the appeal is filed with the hearings board and served on the

1 department or authority 30 days after the date of receipt by the
2 person penalized of the notice imposing the penalty or 30 days after
3 the date of receipt of the notice of disposition by a local air
4 authority of the application for relief from penalty.

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

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

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

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

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

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

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

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

30 (c) Penalties imposed pursuant to RCW 70A.230.080, 70A.300.090,
31 70A.430.070, 70A.555.110, 70A.560.020, and 70A.565.030 must be
32 credited to the model toxics control operating account created in RCW
33 70A.305.180;

34 (d) Penalties imposed pursuant to RCW 70A.245.040 and 70A.245.050
35 must be credited to the recycling enhancement account created in RCW
36 70A.245.100;

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

1 (f) Penalties imposed pursuant to RCW 70A.65.200 must be credited
2 to the climate investment account created in RCW 70A.65.250;
3 (g) Penalties imposed pursuant to RCW 90.56.330 must be credited
4 to the coastal protection fund established in RCW 90.48.390; and
5 (h) Penalties imposed pursuant to RCW 70A.355.070 must be
6 credited to the underground storage tank account created in RCW
7 70A.355.090.

8 NEW SECTION. **Sec. 20.** Sections 1 through 17 of this act
9 constitute a new chapter in Title 70A RCW.

10 NEW SECTION. **Sec. 21.** If any provision of this act or its
11 application to any person or circumstance is held invalid, the
12 remainder of the act or the application of the provision to other
13 persons or circumstances is not affected.

--- END ---