

**RCW 70A.208.040 Producer and producer responsibility organization responsibilities.** (1) A producer must:

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

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

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

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

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

(3) A producer responsibility organization must:

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

(ii) (A) Except as provided in (a) (ii) (B) of this subsection, by September 1, 2026, submit a one-time payment to the department, to cover the costs of the department under this chapter from July 27, 2025, through June 30, 2027, including the costs determined by the department of labor and industries to implement and enforce RCW 49.46.380;

(B) By September 1, 2026, an individual producer registered as a producer responsibility organization must make a one-time payment in an amount determined by the department to cover any incremental costs to the department under this chapter from July 27, 2025, through June 30, 2027, associated with the registration of the individual producer as a producer responsibility organization;

(iii) Beginning May 1, 2027, pay an annual registration fee to the department as required under RCW 70A.208.030;

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

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

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

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

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

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

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

(i) Provide producers with information regarding state and federal laws that restrict toxic substances in covered materials or require postconsumer recycled content in covered materials;

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

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

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

(m) Maintain a website and implement education and outreach activities as required under RCW 70A.208.190; and

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

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

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

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

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

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

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

(ii) Sufficient to achieve the reuse and return rate targets and requirements established in RCW 70A.208.150. If at any point the department determines that reuse and return rate targets or statewide requirements are not met, each producer responsibility organization must increase annual contributions to and expenditures from the reuse financial assistance program.

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

(i) Government entities;

(ii) Tribal governments;

(iii) Nonprofit organizations; and

(iv) Private organizations.

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

- (i) The environmental benefits of the activity;
- (ii) The human health benefits of the activity;
- (iii) The social and economic benefits of the activity;
- (iv) The cost-effectiveness of the activity; and
- (v) The needs of economically distressed or overburdened

communities.

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

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

(7) The activities authorized by this chapter require collaboration among producers. These activities will enable the waste reduction, collection, recycling, composting, and disposal of covered materials in Washington and are therefore in the best interest of the public. The benefits of collaboration, together with active state supervision, outweigh potential adverse impacts. Therefore, the legislature exempts from state antitrust laws, and provides immunity through the state action doctrine from federal antitrust laws, activities that are undertaken in compliance with and pursuant to this chapter, including activities that are reviewed or approved by the department, that might otherwise be constrained by such laws. The legislature does not intend and does not authorize any person or entity to engage in activities not provided for by this chapter, and the legislature neither exempts nor provides immunity for such activities. [2025 c 316 s 104.]