

Meeting #8 Agenda (November 13, 3-4:30pm)

- I. Welcome, Agenda Overview (3:00-3:05)
- II. **Policy Feedback/Discussion: Enforcement (3:05-3:50)**

**Sec. 1.** RCW 70A.205.545 and 2024 c 341 s 302 are each amended to read as follows:

(1)(a) Beginning July 1, 2023, and each July 1st thereafter, the department must determine which counties and any cities preparing independent solid waste management plans:

- (i) Provide for businesses to be serviced by providers that collect food waste and organic material waste for delivery to solid waste facilities that provide for the organic materials management of organic material waste and food waste; and
- (ii) Are serviced by solid waste facilities that provide for the organic materials management of organic material waste and food waste and have year-round capacity to process and are willing to accept increased volumes of organic materials deliveries.

(b)(i) The department must determine and designate that the restrictions of this section apply to businesses in a jurisdiction unless the department determines that the businesses in some or all portions of the city or county have:

- (A) No available businesses that collect and deliver organic materials to solid waste facilities that provide for the organic materials management of organic material waste and food waste; or
- (B) No available capacity at the solid waste facilities to which businesses that collect and deliver organic materials could feasibly and economically deliver organic materials from the jurisdiction.

(ii)(A) In the event that a county or city provides a written request and supporting evidence to the department determining that the criteria of (b)(i)(A) of this subsection are met, and the department confirms this determination, then the restrictions of this section apply only in those portions of the jurisdiction that have available service-providing businesses.

(B) In the event that a county or city provides a written request and supporting evidence to the department determining that the criteria of (b)(i)(B) of this subsection are met, and the department confirms this determination, then the restrictions of this section do not apply to the jurisdiction.

(c) The department must make the result of the annual determinations required under this section available on its website.

(d) The requirements of this section may be enforced concurrently by jurisdictional health departments or the department consistent with this chapter, except that:

~~(i) A jurisdictional health department may not charge a fee to permit holders to cover the costs of the jurisdictional health department's administration or enforcement of the requirements of this section; and prior to issuing a penalty under this section, a jurisdictional health department or the department must provide at least two written notices of noncompliance with the requirements of this section to the owner or operator of a business subject to the requirements of this section.~~

(2)(a)(i) Beginning January 1, 2024, a business that generates at least eight cubic yards of organic material waste per week must arrange for organic materials management services specifically for organic material waste;

(ii) Beginning January 1, 2025, a business that generates at least four cubic yards of organic material waste per week must arrange for organic materials management services specifically for organic material waste; and

(iii) Beginning January 1, 2026, a business that generates at least 96 gallons of organic material waste per week shall arrange for organic materials management services

specifically for organic material waste, unless the department determines, by rule, that additional reductions in the landfilling of organic materials would be more appropriately and effectively achieved, at reasonable cost to regulated businesses, through the establishment of a different volumetric threshold of organic waste material than the threshold of 96 gallons of organic material waste per week.

(b) The following wastes do not count for purposes of determining waste volumes in (a) of this subsection:

- (i) Wastes that are managed on-site by the generating business;
- (ii) Wastes generated from the growth and harvest of food or fiber that are managed off-site by another business engaged in the growth and harvest of food or fiber;
- (iii) Wastes that are managed by a business that enters into a voluntary agreement to sell or donate organic materials to another business for off-site use;
- (iv) Wastes generated in exceptional volumes as a result of a natural disaster or other infrequent and unpreventable event; and
- (v) Wastes generated as a result of a food safety event, such as a product recall, that is due to foreign material or adverse biological activity that requires landfill destruction rather than organic material management.

(3) A business may fulfill the requirements of this section by:

- (a) Source separating organic material waste from other waste, subscribing to a service that includes organic material waste collection and organic materials management, and using such a service for organic material waste generated by the business;
- (b) Managing its organic material waste on-site or self-hauling its own organic material waste for organic materials management;
- (c) Qualifying for exclusion from the requirements of this section consistent with subsection (1)(b) of this section; or
- (d) For a business engaged in the growth, harvest, or processing of food or fiber, entering into a voluntary agreement to sell or donate organic materials to another business for off-site use.

(4)(a) A business generating organic material waste shall arrange for any services required by this section in a manner that is consistent with state and local laws and requirements applicable to the collection, handling, or recycling of solid and organic material waste.

(b) Nothing in this section requires a business to dispose of materials in a manner that conflicts with federal or state public health or safety requirements. Nothing in this section requires businesses to dispose of wastes generated in exceptional volumes as a result of a natural disaster or other infrequent and unpreventable event through the options established in subsection (3) of this section. Nothing in this section prohibits a business from disposing of nonfood organic materials that are not commingled with food waste by using the services of an organic materials management facility that does not accept food waste.

(5) When arranging for gardening or landscaping services, the contract or work agreement between a business subject to this section and a gardening or landscaping service must require that the organic material waste generated by those services be managed in compliance with this chapter.

(6)(a) This section does not limit the authority of a local governmental agency to adopt, implement, or enforce a local organic material waste recycling requirement, or a condition imposed upon a self-hauler, that is more stringent or comprehensive than the requirements of this chapter.

(b) This section does not modify, limit, or abrogate in any manner any of the following:

- (i) A franchise granted or extended by a city, county, city and county, or other local governmental agency;
- (ii) A contract, license, certificate, or permit to collect solid waste previously granted or extended by a city, county, city and county, or other local governmental agency;

- (iii) The right of a business to sell or donate its organic materials; and
- (iv) A certificate of convenience and necessity issued to a solid waste collection company under chapter 81.77 RCW.

(c) Nothing in this section modifies, limits, or abrogates the authority of a local jurisdiction with respect to land use, zoning, or facility siting decisions by or within that local jurisdiction.

(d) Nothing in this section changes or limits the authority of the Washington utilities and transportation commission to regulate collection of solid waste, including curbside collection of residential recyclable materials, nor does this section change or limit the authority of a city or town to provide the service itself or by contract under RCW 81.77.020.

(7)(a) The department may hire a third party to identify businesses that are likely to be covered by the requirements of this section, and to facilitate education and outreach to businesses covered by the requirements of the section about the requirements of this section.

(b) The department must establish an online portal for a business to voluntarily report compliance with this section or to attest or otherwise explain why the business is not subject to the requirements of this section.

(c) The department or a third party contractor under (a) of this section may share information regarding businesses subject to the requirements of this section with the solid waste collection companies that provide collection services for organic material management in the jurisdiction of the business.

(d) A solid waste collection company must:

(i) Upon request, identify to the department businesses subject to the requirements of this section that are currently receiving collection services for organic materials management; and

(ii) Annually submit a list of businesses receiving collection services for organic materials management to the appropriate county and jurisdictional health department.

(8) (a) Violations of the requirements of this section are subject to civil penalties of five hundred dollars per day.

(b) A local government may adopt civil penalties that exceed the amount specified in (a) of this subsection.

(c) A jurisdictional health department may enforce the requirements of this section, or may delegate its enforcement authority to the appropriate solid waste department of the local government.

(d) Prior to imposing civil penalties under this subsection, a jurisdictional health department, the department, or the solid waste department of the local government must issue at least two notices of violation by certified mail.

(9) The definitions in this subsection apply throughout this section unless the context clearly indicates otherwise.

(a)(i) "Business" means a commercial or public entity including, but not limited to, a firm, partnership, proprietorship, joint stock company, corporation, or association that is organized as a for-profit or nonprofit entity.

(ii) "Business" does not include a multifamily residential entity.

(b) "Food waste" has the same meaning as defined in RCW 70A.205.715.

### III. Policy Feedback/Discussion: Multifamily source separation (3:50-4:25)

**Sec. 2.** RCW 70A.205.540 and 2024 c 341 s 301 are each amended to read as follows:

(1) Except as provided in subsection (3) of this section, in each jurisdiction that implements a local solid waste plan under RCW 70A.205.040:

(a) ~~((Beginning April 1, 2027,))~~ source-separated organic solid waste collection services are required to be provided year-round to:

(i) All single-family residents, beginning April 1, 2027; ~~((and))~~

(ii) Nonresidential customers that generate more than .25 cubic yards per week of organic materials for management, beginning April 1, 2027; and

(iii) All multifamily residents, beginning April 1, 2032.

(b)(i) The department may, by waiver, reduce the collection frequency requirements in (a) of this subsection for the collection of dehydrated food waste or to address food waste managed through other circumstances or technologies that will reduce the volume or odor, or both, of collected food waste.

(ii) All organic solid waste collected from ~~((single-family))~~ residents and businesses under this subsection must be managed through organic materials management;

(c) Beginning April 1, 2030, the source-separated organic solid waste collection services specified in (a) of this subsection must be provided to customers on a nonelective basis, except that a jurisdiction may grant an exemption to a customer that certifies to the jurisdiction that the customer is managing organic material waste on-site or self-hauling its own organic material waste for organic materials management;

(d) Beginning April 1, 2030, each jurisdiction's source-separated organic solid waste collection service must include the acceptance of food waste year-round. The jurisdiction may choose to collect food waste source-separated from other organic materials or may collect food waste commingled with other organic materials; and

(e) Beginning April 1, 2030, all persons, when using curbside collection for disposal, may use only source-separated organic solid waste collection services to discard unwanted organic materials. By January 1, 2027, the department must develop guidance under which local jurisdictions may exempt persons from this requirement if organic materials will be managed through an alternative mechanism that provides equal or better environmental outcomes. Nothing in this section precludes the ability of a person to use on-site composting, the diversion of organic materials to animal feed, self-haul organic materials to a facility, or other means of beneficially managing unwanted organic materials. For the purposes of this subsection (1)(e), "person" or "persons" does not include multifamily residences until April 1, 2035.

(2) A jurisdiction may charge and collect fees or rates for the services provided under subsection (1) of this section, consistent with the jurisdiction's authority to impose fees and rates under chapters 35.21, 35A.21, 36.58, and 36.58A RCW.

(3)(a) Except as provided in (e) of this subsection, the requirements of this section do not apply in a jurisdiction if the department determines that the following apply:

(i) The jurisdiction disposed of less than 5,000 tons of solid waste in the most recent year for which data is available; or

(ii) The jurisdiction has a total population of less than 25,000 people.

(b) The requirements of this section do not apply:

(i) In census tracts that have a population density of less than 75 people per square mile that are serviced by the jurisdiction and located in unincorporated portions of a county, as determined by the department, in counties not planning under chapter 36.70A RCW;

(ii) In census tracts that have a population density of greater than 75 people per square mile, where the census tract includes jurisdictions that meet any of the

conditions in (a)(i) and (ii) of this subsection, that are serviced by the jurisdiction and located in unincorporated portions of a county, as determined by the department, in counties not planning under chapter 36.70A RCW;

(iii) Outside of urban growth areas designated pursuant to RCW 36.70A.110 in unincorporated portions of a county planning under chapter 36.70A RCW;

(iv) Inside of unincorporated urban growth areas for jurisdictions planning under chapter 36.70A RCW that meet any of the conditions in (a)(i) and (ii) of this subsection; and

(v) In unincorporated urban growth areas in counties with an unincorporated population of less than 25,000 people.

(c) A jurisdiction that collects organic materials, but that does not collect organic materials on a year-round basis as of January 1, 2024, is not required to provide year-round organic solid waste collection services if it provides those services at least 26 weeks annually.

(d) In addition to the exemptions in (a) through (c) of this subsection, the department may issue a renewable waiver to jurisdictions or portions of a jurisdiction under this subsection for up to five years, based on consideration of factors including the distance to organic materials management facilities, the sufficiency of the capacity to manage organic materials at facilities to which organic materials could feasibly and economically be delivered from the jurisdiction, and restrictions in the transport of organic materials under chapter 17.24 RCW. The department may adopt rules to specify the type of information that a waiver applicant must submit to the department and to specify the department's process for reviewing and approving waiver applications.

(e) Beginning January 1, 2030, the department may adopt a rule to require that the provisions of this section apply in the jurisdictions identified in (b) through (d) of this subsection, but only if the department determines that the goals established in RCW 70A.205.007(1) have not or will not be achieved.

(4) Any city that newly begins implementing an independent solid waste plan under RCW 70A.205.040 after July 1, 2022, must meet the requirements of subsection (1) of this section.

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

(6) No penalty may be assessed on an individual or resident for the improper disposal of organic materials under subsection (1) of this section in a noncommercial or residential setting.

(7) The department must adopt new rules or amend existing rules adopted under this chapter establishing permit requirements for organic materials management facilities requiring a solid waste handling permit addressing contamination associated with incoming food waste feedstocks and finished products, for environmental benefit.

#### IV. Wrap-up & Adjourn (4:25-4:30)

- a. Next Meeting: Thursday, November 21 – Compostable products; Food date labeling