

# Agenda Summary Report (ASR)

## Franklin County Board of Commissioners

<b>DATE SUBMITTED:</b> December 13, 2022		<b>PREPARED BY:</b> Craig Erdman, PE Director/CE	
<b>Meeting Date Requested:</b> December 20, 2022		<b>PRESENTED BY:</b> Craig Erdman P.E., Director/County Engineer	
<b>ITEM:</b> (Select One)		Consent Agenda	<input checked="" type="checkbox"/> Brought Before the Board Time needed: 15 minutes
<b>SUBJECT:</b> Compost Procurement Draft Ordinance			
<b>FISCAL IMPACT:</b> N/A			
<b>BACKGROUND:</b>  E2SHB 1799 requires cities and counties to adopt a compost procurement ordinance by January 1, 2023. The Public Works presents a draft ordinance for review and direction by the Board of County Commissioners.			
<b>RECOMMENDATION:</b> Staff seeks direction from the Board on how to proceed.			
<b>SUGGESTED MOTION:</b>			
<b>COORDINATION:</b> This ordinance was drafted by Craig Erdman, PE, Director/County Engineer.			
<b>ATTACHMENTS:</b> (Documents you are submitting to the Board) 1. Draft Compost Procurement Ordinance 2. Supporting documentation			
<b>HANDLING / ROUTING:</b> (Once document is fully executed it will be imported into Document Manager. Please list <u>name(s)</u> of parties that will need a pdf)			

*I certify the above information is accurate and complete.*



Craig Erdman, P.E. Director/County Engineer

**ORDINANCE NUMBER   -2022**

**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FRANKLIN COUNTY, WASHINGTON:**

**AN ORDINANCE ESTABLISHING CHAPTER XX.XX OF THE FRANKLIN COUNTY CODE  
AND CREATING COMPOST PROCUREMENT ORDINANCE FOR FRANKLIN COUNTY,  
WASHINGTON.**

**WHEREAS**, the Board of Franklin County Commissioners is given authority to pass regulatory ordinances under the Washington State Constitution Article 11, §11 and Revised Code of Washington (RCW) 36.32.120(7); and

**WHEREAS**, the forces of Franklin County expend capital in the procurement, improvement, and upkeep of County right-of-way, representing real costs to the County and public; and

**WHEREAS**, HB 1799 established goals for the state of Washington to cut landfill-disposed organics material by 75% compared to 2015; and

**WHEREAS**, 43.19A RCW requires local governments with populations over 25,000 people to adopt an ordinance related to the procurement of compost; and

**WHEREAS**, the provisions of this compost procurement policy is exempt from SEPA review pursuant to WAC 197-11-800(14)(a) and (19)(a); and

**NOW, THEREFORE, BE IT ORDAINED:**

**BE IT FURTHER ORDAINED BY FRANKLIN COUNTY**, as follows:

**SECTION 1.   Purpose.**

The purpose of this Chapter is to establish compost procurement policies and procedures as per RCW 43.19A.

**SECTION 2.   Definition.**

A “Finished Compost Product” means a product created with “composted material” as defined in RCW 70A.205.015 (3). Finished Compost Products include, but are not limited to, 100% finished compost or blends that include compost as a primary ingredient. Mulch is considered a Finished Compost Product if it contains a minimum of sixty percent composted material. Bark is not a Finished Compost Product.

**SECTION 3.   General Policy.**

Franklin County shall purchase finished compost products for use in public projects in which compost is an appropriate material in county projects or on county land, provided it is not cost prohibitive to acquire. Cost prohibitive is defined as a product purchasing cost that exceeds 10% of the cost of another product that would serve the same purpose. Procurement costs will include the product cost and all associated transportation and delivery charges. Franklin County is not required to use compost products if:

- (i) Compost products are not available within a reasonable period of time;
- (ii) Compost products that are available do not comply with existing purchasing standards; and
- (iii) Available compost products do not comply with federal or state health, quality, or safety standards.

Pursuant to RCW 43.19A.130 Franklin County will strive to purchase an amount of finished compost products equal or greater than fifty percent of the amount of organic materials delivered to the compost processor.

#### **SECTION 4. Local Purchasing.**

Franklin County will purchase finished compost products from companies producing compost locally, are certified by a nationally recognized organization, such as the US Composting Council, and produce finished compost products derived from municipal solid waste compost programs while meeting quality standards adopted by the Department of Transportation or adopted by rule by the Department of Ecology. If locally produced compost is not available, compost shall be sourced from outside the region, with preference given to products sourced as close to Franklin County as possible.

Franklin County defines “local” as compost providers located within a 50-mile radius of the Franklin County Pasco Shop.

Proof that locally produced compost was not available at the time of purchase or was cost-prohibitive shall be documented.

#### **SECTION 5. Planning.**

Franklin County shall plan for the use of compost in the following categories:

- (a) Landscaping projects;
- (b) Construction and post-construction soil amendments;
- (c) Erosion Control;
- (d) Onsite storm water treatment

This plan will be reviewed each December 31 beginning in 2024 and each subsequent even-numbered year thereafter as part of the reporting obligations set forth in Section 6.

#### **SECTION 6. Reporting.**

Each December 31 beginning in 2024 and each subsequent even-numbered year thereafter, Franklin County will report the following information to the Washington State Department of Ecology:

- (a) Total tons of organic material diverted from landfills each year;
- (b) The volume and cost of composted material purchased each year. Blended material volumes will be based on the percentage of composted material included in the material.
- (c) The source(s) of purchased, finished compost product.

**SECTION 7. Education.**

Franklin County shall conduct educational outreach to residents to inform them about the value of compost and how compost is used by the County.

**SECTION 8. Severability.**

If any section, subsection, sentence, clause, phrase or other portion of this Ordinance or its application to any person is, for any reason, declared invalid, illegal or unconstitutional in whole or in part by any court or agency of competent jurisdiction, said decision shall not affect the validity of the remaining portions hereof.

**SECTION 9. Effective Date.**

This Ordinance shall take effect January 1, 2023.

**SECTION 10. Corrections.**

Upon approval of the Prosecuting Attorney's Office, the Clerk of the Board is authorized to make any necessary corrections to any section, subsection, sentence, clause, phrase or other portion of this Ordinance for scrivener or clerical errors, references, ordinance numbering, section/subsection numbers, and any reference thereto.

**Policy References**

**E2SHB 1799**, Organic Materials Procurement

**RCW 43.19A.120**, Use of compost products in projects

**RCW 43.19a.130**, Local governments are encouraged to enter compost product purchasing agreements

**APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

**BOARD OF COUNTY COMMISSIONERS  
FRANKLIN COUNTY, WASHINGTON**

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Chair Pro Tem

\_\_\_\_\_  
Member

Attest

\_\_\_\_\_  
Clerk of the Board

ORDINANCE -2022

COMPOST PROCUREMENT

Page 3 of 3

CERTIFICATION OF ENROLLMENT  
**ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1799**

Chapter 180, Laws of 2022

67th Legislature  
2022 Regular Session

ORGANIC MATERIALS—VARIOUS PROVISIONS

EFFECTIVE DATE: June 9, 2022

Passed by the House March 8, 2022  
Yeas 57 Nays 40

\_\_\_\_\_  
LAURIE JINKINS

**Speaker of the House of  
Representatives**

Passed by the Senate March 3, 2022  
Yeas 34 Nays 14

\_\_\_\_\_  
DENNY HECK

**President of the Senate**

Approved March 25, 2022 10:37 AM

\_\_\_\_\_  
JAY INSLEE

**Governor of the State of Washington**

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1799** as passed by the House of Representatives and the Senate on the dates hereon set forth.

\_\_\_\_\_  
BERNARD DEAN

**Chief Clerk**

FILED

March 28, 2022

**Secretary of State  
State of Washington**

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ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1799

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AS AMENDED BY THE SENATE

Passed Legislature - 2022 Regular Session

**State of Washington                      67th Legislature                      2022 Regular Session**

**By** House Appropriations (originally sponsored by Representatives Fitzgibbon, Berry, Duerr, Riccelli, and Harris-Talley)

READ FIRST TIME 02/07/22.

1        AN ACT Relating to organic materials management; amending RCW  
2        70A.205.040,        70A.205.015,        69.80.031,        69.80.040,        89.08.615,  
3        43.155.020,        36.70.330,        39.30.040,        70A.455.010,        70A.455.020,  
4        70A.455.040,        70A.455.050,        70A.455.060,        70A.455.070,        70A.455.080,  
5        70A.455.090,        70A.455.100, and 70A.455.030; reenacting and amending  
6        RCW 43.21B.110 and 43.21B.300; adding new sections to chapter 70A.205  
7        RCW; adding a new section to chapter 43.21C RCW; adding a new section  
8        to chapter 15.04 RCW; adding a new section to chapter 36.70A RCW;  
9        adding a new section to chapter 35.63 RCW; adding a new section to  
10       chapter 35A.63 RCW; adding new sections to chapter 43.19A RCW; adding  
11       a new section to chapter 70A.455 RCW; adding a new chapter to Title  
12       70A RCW; creating new sections; repealing RCW 70A.455.110 and  
13       70A.455.900; and prescribing penalties.

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

15       NEW SECTION.    **Sec. 1.**    (1) The legislature finds that landfills  
16       are a significant source of emissions of methane, a potent greenhouse  
17       gas. Among other economic and environmental benefits, the diversion  
18       of organic materials to productive uses will reduce methane  
19       emissions.

20       (2) In order to reduce methane emissions associated with organic  
21       materials, the legislature finds that it will be beneficial to

1 improve a variety of aspects of how organic materials and organic  
2 material wastes are reduced, managed, incentivized, and regulated  
3 under state law. Therefore, it is the intent of the legislature to  
4 support the diversion of organic materials from landfills through a  
5 variety of interventions to support productive uses of organic  
6 material wastes, including by:

7 (a) Requiring some local governments to begin providing separated  
8 organic material collection services within their jurisdictions in  
9 order to increase volumes of organic materials collected and  
10 delivered to composting and other organic material management  
11 facilities and reduce the volumes of organic materials collected in  
12 conjunction with other solid waste and delivered to landfills;

13 (b) Requiring local governments to consider state organic  
14 material management goals and requirements in the development of  
15 their local solid waste plans;

16 (c) Requiring some businesses to manage their organic material  
17 wastes in a manner that does not involve landfilling them, in order  
18 to address one significant source of organic materials that currently  
19 frequently end up in landfills;

20 (d) Reducing legal liability risk barriers to the donation of  
21 edible food in order to encourage the recovery of foods that might  
22 otherwise be landfilled;

23 (e) Establishing the Washington center for sustainable food  
24 management within the department of ecology in order to coordinate  
25 and improve statewide food waste reduction and diversion efforts;

26 (f) Establishing various new funding and financial incentives  
27 intended to increase composting and other forms of productive organic  
28 materials management, helping to make the responsible management of  
29 organic materials more cost-competitive with landfilling of organic  
30 material wastes;

31 (g) Facilitating the siting of organic material management  
32 facilities in order to ensure that adequate capacity exists to  
33 process organic materials at the volumes necessary to achieve state  
34 organic material diversion goals;

35 (h) Encouraging cities and counties to procure more of the  
36 compost and finished products created from their organic material  
37 wastes in order to support the economic viability of processes to  
38 turn organic materials into finished products, and increasing the  
39 likelihood that composting and other responsible organic material  
40 management options are economically viable; and

(i) Amending standards related to the labeling of plastic and compostable products in order to reduce contamination of the waste streams handled by compost and organic material management facilities and improve the economic viability of those responsible organic material management options.

## **PART 1**

### **State Targets and Organic Material Waste Collection Requirements**

NEW SECTION.     **Sec. 101.**     A new section is added to chapter 70A.205 RCW to read as follows:

(1)(a) The state establishes a goal for the landfill disposal of organic materials at a level representing a 75 percent reduction by 2030 in the statewide disposal of organic material waste, relative to 2015 levels.

(b) The state establishes a goal that no less than 20 percent of the volume of edible food that was disposed of as of 2015 be recovered for human consumption by 2025.

(2) The provisions of subsection (1) of this section are in addition to the food waste reduction goals of RCW 70A.205.715(1).

NEW SECTION.     **Sec. 102.**     A new section is added to chapter 70A.205 RCW to read as follows:

(1) Beginning January 1, 2027, in each jurisdiction that implements a local solid waste plan under RCW 70A.205.040:

(a) Source-separated organic solid waste collection services must be provided at least every other week or at least 26 weeks annually to:

(i) All residents; and

(ii) Nonresidential customers that generate more than .25 cubic yard per week of organic materials for management; and

(b) All organic solid waste collected from residents and businesses under (a) of this subsection must be managed through organic materials management.

(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.



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

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

6 (ii) The jurisdiction has a total population of less than 25,000  
7 people; or

8 (iii) The jurisdiction has a total population between 25,000 and  
9 50,000 people and curbside organic solid waste collection services  
10 are not offered in any area within the jurisdiction, as of July 1,  
11 2022.

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

13 (i) In census tracts that have a population density of less than  
14 75 people per square mile that are serviced by the jurisdiction and  
15 located in unincorporated portions of a county, as determined by the  
16 department, in counties not planning under chapter 36.70A RCW; and

17 (ii) Outside of urban growth areas designated pursuant to RCW  
18 36.70A.110 in unincorporated portions of a county planning under  
19 chapter 36.70A RCW.

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

32 (d) Beginning January 1, 2030, the department may adopt a rule to  
33 require that the provisions of this section apply in the  
34 jurisdictions identified in (b) and (c) of this subsection, but only  
35 if the department determines that the goals established in section  
36 101(1) of this act have not or will not be achieved.

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

1       **Sec. 103.** RCW 70A.205.040 and 2010 c 154 s 2 are each amended to  
2 read as follows:

3       (1) Each county within the state, in cooperation with the various  
4 cities located within such county, shall prepare a coordinated,  
5 comprehensive solid waste management plan. Such plan may cover two or  
6 more counties. The purpose is to plan for solid waste and materials  
7 reduction, collection, and handling and management services and  
8 programs throughout the state, as designed to meet the unique needs  
9 of each county and city in the state. When updating a solid waste  
10 management plan developed under this chapter, after June 10, 2010,  
11 local comprehensive plans must consider and plan for the following  
12 handling methods or services:

13       (a) Source separation of recyclable materials and products,  
14 organic materials, and wastes by generators;

15       (b) Collection of source separated materials;

16       (c) Handling and proper preparation of materials for reuse or  
17 recycling;

18       (d) Handling and proper preparation of organic materials for  
19 ~~((composting or anaerobic digestion))~~ organic materials management;  
20 and

21       (e) Handling and proper disposal of nonrecyclable wastes.

22       (2) When updating a solid waste management plan developed under  
23 this chapter, after June 10, 2010, each local comprehensive plan  
24 must, at a minimum, consider methods that will be used to address the  
25 following:

26       (a) Construction and demolition waste for recycling or reuse;

27       (b) Organic material including yard debris, food waste, and food  
28 contaminated paper products for ~~((composting or anaerobic digestion))~~  
29 organic materials management;

30       (c) Recoverable paper products for recycling;

31       (d) Metals, glass, and plastics for recycling; and

32       (e) Waste reduction strategies.

33       (3) (a) When newly developing, updating, or amending a  
34 comprehensive solid waste management plan developed under this  
35 chapter, after July 1, 2024, each local comprehensive solid waste  
36 management plan must consider the transition to the requirements of  
37 section 102 of this act, and each comprehensive solid waste  
38 management plan implemented by a county must identify:

39       (i) The priority areas within the county for the establishment of  
40 organic materials management facilities. Priority areas must be in

1 industrial zones, agricultural zones, or rural zones, and may not be  
2 located in overburdened communities identified by the department of  
3 ecology under chapter 70A.02 RCW. Priority areas should be designated  
4 with an attempt to minimize incompatible uses and potential impacts  
5 on residential areas; and

6 (ii) Organic materials management facility volumetric capacity  
7 required to manage the county's organic materials in a manner  
8 consistent with the goals of section 101 of this act.

9 (b) When newly developing, updating, or amending a comprehensive  
10 solid waste management plan developed under this chapter, after  
11 January 1, 2027, each local comprehensive solid waste management plan  
12 must be consistent with the requirements of section 102 of this act.

13 (c)(i) Notwithstanding (a) and (b) of this subsection, and except  
14 as provided in (c)(ii) of this subsection, a jurisdiction  
15 implementing a local comprehensive solid waste management plan under  
16 this chapter may not site the increase or expansion of any existing  
17 organic materials management facility that processed more than  
18 200,000 tons of material, relative to 2019 levels.

19 (ii) The limitation in (c)(i) of this subsection does not apply  
20 to the siting of any anaerobic digester or anaerobic digestion  
21 facility.

22 (4) Each city shall:

23 (a) Prepare and deliver to the county auditor of the county in  
24 which it is located its plan for its own solid waste management for  
25 integration into the comprehensive county plan;

26 (b) Enter into an agreement with the county pursuant to which the  
27 city shall participate in preparing a joint city-county plan for  
28 solid waste management; or

29 (c) Authorize the county to prepare a plan for the city's solid  
30 waste management for inclusion in the comprehensive county plan.

31 ~~((+4))~~ (5) Two or more cities may prepare a plan for inclusion  
32 in the county plan. With prior notification of its home county of its  
33 intent, a city in one county may enter into an agreement with a city  
34 in an adjoining county, or with an adjoining county, or both, to  
35 prepare a joint plan for solid waste management to become part of the  
36 comprehensive plan of both counties.

37 ~~((+5))~~ (6) After consultation with representatives of the cities  
38 and counties, the department shall establish a schedule for the  
39 development of the comprehensive plans for solid waste management. In

1 preparing such a schedule, the department shall take into account the  
2 probable cost of such plans to the cities and counties.

3 ~~((+6))~~ (7) Local governments shall not be required to include a  
4 hazardous waste element in their solid waste management plans.

5 NEW SECTION. **Sec. 104.** (1) The department of ecology must  
6 contract with a third-party consultant to conduct a study of the  
7 adequacy of local government solid waste management funding,  
8 including options and recommendations to provide funding for solid  
9 waste programs in the future if significant statewide policy changes  
10 are enacted. The department must include the Washington association  
11 of county solid waste managers, the association of Washington cities,  
12 an association that represents the private sector solid waste  
13 industry, and other stakeholders in scoping the study and reviewing  
14 the consultant's findings and recommendations prior to submittal to  
15 the legislature.

16 (2) The study must include:

17 (a) Consideration for jurisdictional type, location, size,  
18 service level, and other relevant differences between cities and  
19 counties;

20 (b) A review and update of current funding types and levels  
21 available, and their rate of adoption;

22 (c) The funding needs to implement the solid waste core services  
23 model developed by the Washington association of county solid waste  
24 managers;

25 (d) Alternative funding models utilized by other publicly managed  
26 solid waste programs in other states or countries that may be  
27 relevant to Washington; and

28 (e) An evaluation of the impacts on solid waste funding resources  
29 available to cities and counties from statewide solid waste  
30 management policy proposals considered by the legislature or enacted  
31 in the last four years, including proposals to:

32 (i) Reduce the quantity of organic waste to landfills;

33 (ii) Manage products through product stewardship or extended  
34 producer responsibility programs;

35 (iii) Improve or install new or updated methane capture systems;

36 (iv) Increase postconsumer content requirements for materials  
37 collected in solid waste programs; and

38 (v) Other related proposals that may impact solid waste funding  
39 resources.

(3) The study must evaluate a range of forecasted fiscal impacts for each type of policy change on local government solid waste management programs, including:

- (a) The level of service provided by local government;
- (b) Costs to the local government;
- (c) Existing revenue levels; and
- (d) The need for additional revenue.

(4) The department must submit the report, including findings and any recommendations, to the appropriate committees of the legislature by July 1, 2023.

**Sec. 105.** RCW 70A.205.015 and 2020 c 20 s 1161 are each amended to read as follows:

~~((As used in this chapter, unless the context indicates otherwise:))~~ The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "City" means every incorporated city and town.

(2) "Commission" means the utilities and transportation commission.

(3) "Composted material" means organic solid waste that has been subjected to controlled aerobic degradation at a solid waste facility in compliance with the requirements of this chapter. Natural decay of organic solid waste under uncontrolled conditions does not result in composted material.

(4) "Department" means the department of ecology.

(5) "Director" means the director of the department of ecology.

(6) "Disposal site" means the location where any final treatment, utilization, processing, or deposit of solid waste occurs.

(7) "Energy recovery" means a process operating under federal and state environmental laws and regulations for converting solid waste into usable energy and for reducing the volume of solid waste.

(8) "Functional standards" means criteria for solid waste handling expressed in terms of expected performance or solid waste handling functions.

(9) "Incineration" means a process of reducing the volume of solid waste operating under federal and state environmental laws and regulations by use of an enclosed device using controlled flame combustion.

1 (10) "Inert waste landfill" means a landfill that receives only  
2 inert waste, as determined under RCW 70A.205.030, and includes  
3 facilities that use inert wastes as a component of fill.

4 (11) "Jurisdictional health department" means city, county, city-  
5 county, or district public health department.

6 (12) "Landfill" means a disposal facility or part of a facility  
7 at which solid waste is placed in or on land and which is not a land  
8 treatment facility.

9 (13) "Local government" means a city, town, or county.

10 (14) "Modify" means to substantially change the design or  
11 operational plans including, but not limited to, removal of a design  
12 element previously set forth in a permit application or the addition  
13 of a disposal or processing activity that is not approved in the  
14 permit.

15 (15) "Multiple-family residence" means any structure housing two  
16 or more dwelling units.

17 (16) "Person" means individual, firm, association, copartnership,  
18 political subdivision, government agency, municipality, industry,  
19 public or private corporation, or any other entity whatsoever.

20 (17) "Recyclable materials" means those solid wastes that are  
21 separated for recycling or reuse, such as papers, metals, and glass,  
22 that are identified as recyclable material pursuant to a local  
23 comprehensive solid waste plan. Prior to the adoption of the local  
24 comprehensive solid waste plan, adopted pursuant to RCW  
25 70A.205.075(2), local governments may identify recyclable materials  
26 by ordinance from July 23, 1989.

27 (18) "Recycling" means transforming or remanufacturing waste  
28 materials into usable or marketable materials for use other than  
29 landfill disposal or incineration.

30 (19) "Residence" means the regular dwelling place of an  
31 individual or individuals.

32 (20) "Sewage sludge" means a semisolid substance consisting of  
33 settled sewage solids combined with varying amounts of water and  
34 dissolved materials, generated from a wastewater treatment system,  
35 that does not meet the requirements of chapter 70A.226 RCW.

36 (21) "Soil amendment" means any substance that is intended to  
37 improve the physical characteristics of the soil, except composted  
38 material, commercial fertilizers, agricultural liming agents,  
39 unmanipulated animal manures, unmanipulated vegetable manures, food  
40 wastes, food processing wastes, and materials exempted by rule of the

department, such as biosolids as defined in chapter 70A.226 RCW and wastewater as regulated in chapter 90.48 RCW.

(22) "Solid waste" or "wastes" means all putrescible and nonputrescible solid and semisolid wastes including, but not limited to, garbage, rubbish, ashes, industrial wastes, swill, sewage sludge, demolition and construction wastes, abandoned vehicles or parts thereof, and recyclable materials.

(23) "Solid waste handling" means the management, storage, collection, transportation, treatment, utilization, processing, and final disposal of solid wastes, including the recovery and recycling of materials from solid wastes, the recovery of energy resources from solid wastes or the conversion of the energy in solid wastes to more useful forms or combinations thereof.

(24) "Source separation" means the separation of different kinds of solid waste at the place where the waste originates.

(25) "Vehicle" includes every device physically capable of being moved upon a public or private highway, road, street, or watercourse and in, upon, or by which any person or property is or may be transported or drawn upon a public or private highway, road, street, or watercourse, except devices moved by human or animal power or used exclusively upon stationary rails or tracks.

(26) "Waste-derived soil amendment" means any soil amendment as defined in this chapter that is derived from solid waste as defined in this section, but does not include biosolids or biosolids products regulated under chapter 70A.226 RCW or wastewaters regulated under chapter 90.48 RCW.

(27) "Waste reduction" means reducing the amount or toxicity of waste generated or reusing materials.

(28) "Yard debris" means plant material commonly created in the course of maintaining yards and gardens, and through horticulture, gardening, landscaping, or similar activities. Yard debris includes but is not limited to grass clippings, leaves, branches, brush, weeds, flowers, roots, windfall fruit, vegetable garden debris, holiday trees, and tree prunings four inches or less in diameter.

(29)(a)(i) "Organic materials" means any solid waste that is a biological substance of plant or animal origin capable of microbial degradation.

(ii) Organic materials include, but are not limited to, manure, yard debris, food waste, food processing waste, wood waste, and garden waste.

(b) "Organic materials" does not include any materials contaminated by herbicides, pesticides, pests, or other sources of chemical or biological contamination that would render a finished product of an organic material management process unsuitable for general public or agricultural use.

(30) "Organic materials management" means management of organic materials through composting, anaerobic digestion, vermiculture, black soldier fly, or similar technologies.

## PART 2

## Requirements for Organics Management by Businesses

NEW SECTION.      **Sec. 201.**      A new section is added to chapter 70A.205 RCW 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 capacity 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 written notification to the department indicating that the criteria of (b)(i)(A) of this subsection are met, then the restrictions of this section apply only in those portions of the jurisdiction that have available service-providing businesses.



1 (B) In the event that a county or city provides written  
2 notification to the department indicating that the criteria of  
3 (b)(i)(B) of this subsection are met, then the restrictions of this  
4 section do not apply to the jurisdiction.

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

7 (d) The requirements of this section may be enforced by  
8 jurisdictional health departments consistent with this chapter,  
9 except that:

10 (i) A jurisdictional health department may not charge a fee to  
11 permit holders to cover the costs of the jurisdictional health  
12 department's administration or enforcement of the requirements of  
13 this section; and

14 (ii) Prior to issuing a penalty under this section, a  
15 jurisdictional health department must provide at least two written  
16 notices of noncompliance with the requirements of this section to the  
17 owner or operator of a business subject to the requirements of this  
18 section.

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

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

27 (iii) Beginning January 1, 2026, a business that generates at  
28 least four cubic yards of solid waste per week shall arrange for  
29 organic materials management services specifically for organic  
30 material waste, unless the department determines, by rule, that  
31 additional reductions in the landfilling of organic materials would  
32 be more appropriately and effectively achieved, at reasonable cost to  
33 regulated businesses, through the establishment of a different  
34 volumetric threshold of solid waste or organic material waste than  
35 the threshold of four cubic yards of solid waste per week.

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

38 (i) Wastes that are managed on-site by the generating business;

1 (ii) Wastes generated from the growth and harvest of food or  
2 fiber that are managed off-site by another business engaged in the  
3 growth and harvest of food or fiber;

4 (iii) Wastes that are managed by a business that enters into a  
5 voluntary agreement to sell or donate organic materials to another  
6 business for off-site use; and

7 (iv) Wastes generated in exceptional volumes as a result of a  
8 natural disaster or other infrequent and unpreventable event.

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

10 (a) Source separating organic material waste from other waste,  
11 subscribing to a service that includes organic material waste  
12 collection and organic materials management, and using such a service  
13 for organic material waste generated by the business;

14 (b) Managing its organic material waste on-site or self-hauling  
15 its own organic material waste for organic materials management;

16 (c) Qualifying for exclusion from the requirements of this  
17 section consistent with subsection (1)(b) of this section; or

18 (d) For a business engaged in the growth, harvest, or processing  
19 of food or fiber, entering into a voluntary agreement to sell or  
20 donate organic materials to another business for off-site use.

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

26 (b) Nothing in this section requires a business to dispose of  
27 materials in a manner that conflicts with federal or state public  
28 health or safety requirements. Nothing in this section requires  
29 businesses to dispose of wastes generated in exceptional volumes as a  
30 result of a natural disaster or other infrequent and unpreventable  
31 event through the options established in subsection (3) of this  
32 section.

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

38 (6)(a) This section does not limit the authority of a local  
39 governmental agency to adopt, implement, or enforce a local organic  
40 material waste recycling requirement, or a condition imposed upon a

1 self-hauler, that is more stringent or comprehensive than the  
2 requirements of this chapter.

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

5 (i) A franchise granted or extended by a city, county, city and  
6 county, or other local governmental agency;

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

10 (iii) The right of a business to sell or donate its organic  
11 materials; and

12 (iv) A certificate of convenience and necessity issued to a solid  
13 waste collection company under chapter 81.77 RCW.

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

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

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

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

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

31 (b) "Food waste" has the same meaning as defined in RCW  
32 70A.205.715.

### 33 PART 3

### 34 Updates to the Washington Good Samaritan Act

35 **Sec. 301.** RCW 69.80.031 and 1994 c 299 s 36 are each amended to  
36 read as follows:

37 (1) This section may be cited as the "good samaritan food  
38 donation act."

1       (2) (~~(As used in this section:)~~) The definitions in this  
2 subsection apply throughout this section unless the context clearly  
3 requires otherwise.

4       (a) "Apparently fit grocery product" means a grocery product that  
5 meets (~~(all quality and)~~) safety and safety-related labeling  
6 standards imposed by federal, state, and local laws and regulations  
7 even though the product may not be readily marketable due to  
8 appearance, age, freshness, grade, size, surplus, passage of a date  
9 on a date label other than a safety or safety-related labeling of a  
10 date, or other conditions.

11       (b) "Apparently wholesome food" means food that meets (~~(all~~  
12 ~~quality and)~~) safety and safety-related labeling standards imposed by  
13 federal, state, and local laws and regulations even though the food  
14 may not be readily marketable due to appearance, age, freshness,  
15 grade, size, surplus, passage of a date on a date label other than a  
16 safety or safety-related labeling of a date, or other conditions.

17       (c) "Donate" means to give without requiring anything of monetary  
18 value from the recipient, except that the term shall include giving  
19 by a nonprofit organization to another nonprofit organization,  
20 notwithstanding that the donor organization has charged a nominal fee  
21 to the donee organization, if the ultimate recipient or user is not  
22 required to give anything of monetary value.

23       (d) "Food" means a raw, cooked, processed, or prepared edible  
24 substance, ice, beverage, or ingredient used or intended for use in  
25 whole or in part for human consumption.

26       (e) "Gleaner" means a person who harvests for free distribution  
27 to the needy, or for donation to a nonprofit organization for  
28 ultimate distribution to the needy, an agricultural crop that has  
29 been donated by the owner.

30       (f) "Grocery product" means a nonfood grocery product, including  
31 a disposable paper or plastic product, household cleaning product,  
32 laundry detergent, cleaning product, or miscellaneous household item.

33       (g) "Gross negligence" means voluntary and conscious conduct by a  
34 person with knowledge, at the time of the conduct, that the conduct  
35 is likely to be harmful to the health or well-being of another  
36 person.

37       (h) "Intentional misconduct" means conduct by a person with  
38 knowledge, at the time of the conduct, that the conduct is harmful to  
39 the health or well-being of another person.

1 (i) "Nonprofit organization" means an incorporated or  
2 unincorporated entity that:

3 (i) Is operating for religious, charitable, or educational  
4 purposes; and

5 (ii) Does not provide net earnings to, or operate in any other  
6 manner that inures to the benefit of, any officer, employee, or  
7 shareholder of the entity.

8 (j) "Person" means an individual, corporation, partnership,  
9 organization, association, or governmental entity, including a retail  
10 grocer, wholesaler, hotel, motel, manufacturer, restaurant, caterer,  
11 farmer, and nonprofit food distributor or hospital. In the case of a  
12 corporation, partnership, organization, association, or governmental  
13 entity, the term includes an officer, director, partner, deacon,  
14 trustee, councilmember, or other elected or appointed individual  
15 responsible for the governance of the entity.

16 (k) "Qualified direct donor" means any person required to obtain  
17 a food establishment permit under chapter 246-215 WAC, as it existed  
18 as of January 1, 2022, including a retail grocer, wholesaler,  
19 agricultural producer, restaurant, caterer, school food authority, or  
20 institution of higher education as defined in RCW 28B.10.016.

21 (l)(i) "Safety and safety-related labeling" means a marking  
22 intended to communicate information to a consumer related to a food  
23 product's safety. "Safety and safety-related labeling" includes any  
24 marking that federal or state law requires to be affixed to a food  
25 product including, but not limited to, markings placed on infant  
26 formula consistent with 21 C.F.R. Sec. 107.20, as that regulation  
27 existed as of January 1, 2021.

28 (ii) "Safety and safety-related labeling" does not include a pull  
29 date required to be placed on perishable packaged food under RCW  
30 15.130.300 or a "best by," "best if used by," "use by," or "sell by"  
31 date or similarly phrased date intended to communicate information to  
32 a consumer regarding the freshness or quality of a food product.

33 (3)(a) A person or gleaner is not subject to civil or criminal  
34 liability arising from the nature, age, packaging, or condition of  
35 apparently wholesome food or an apparently fit grocery product that  
36 the person or gleaner donates in good faith to a nonprofit  
37 organization for ultimate distribution to needy individuals, except  
38 that this subsection does not apply to an injury to or death of an  
39 ultimate user or recipient of the food or grocery product that

1 results from an act or omission of the donor constituting gross  
2 negligence or intentional misconduct.

3 (b) A qualified direct donor may donate food directly to end  
4 recipients for consumption. A qualified direct donor is not subject  
5 to civil or criminal liability arising from the nature, age,  
6 packaging, or condition of apparently wholesome food or an apparently  
7 fit grocery product that the qualified direct donor donates in good  
8 faith to a needy individual. The donation of nonperishable food that  
9 is fit for human consumption, but that has exceeded the labeled  
10 shelf-life date recommended by the manufacturer, is an activity  
11 covered by the exclusion from civil or criminal liability under this  
12 section.

13 (c) The donation of perishable food that is fit for human  
14 consumption, but that has exceeded the labeled shelf-life date  
15 recommended by the manufacturer, is an activity covered by the  
16 exclusion from civil or criminal liability under this section if the  
17 person that distributes the food to the end recipient makes a good  
18 faith evaluation that the food to be donated is wholesome.

19 (4) A person who allows the collection or gleaning of donations  
20 on property owned or occupied by the person by gleaners, or paid or  
21 unpaid representatives of a nonprofit organization, for ultimate  
22 distribution to needy individuals is not subject to civil or criminal  
23 liability that arises due to the injury or death of the gleaner or  
24 representative, except that this subsection does not apply to an  
25 injury or death that results from an act or omission of the person  
26 constituting gross negligence or intentional misconduct.

27 (5) If some or all of the donated food and grocery products do  
28 not meet ~~((all quality and))~~ safety and safety-related labeling  
29 standards imposed by federal, state, and local laws and regulations,  
30 the person or gleaner who donates the food and grocery products is  
31 not subject to civil or criminal liability in accordance with this  
32 section if the nonprofit organization or other end recipient that  
33 receives the donated food or grocery products:

34 (a) Is informed by the donor of the distressed or defective  
35 condition of the donated food or grocery products;

36 (b) Agrees to recondition the donated food or grocery products to  
37 comply with all the ~~((quality and))~~ safety and safety-related  
38 labeling standards prior to distribution; and

39 (c) Is knowledgeable of the standards to properly recondition the  
40 donated food or grocery product.

(6) This section may not be construed to create liability.

## **PART 4**

### **Washington Center for Sustainable Food Management**

NEW SECTION.     **Sec. 401.**     The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Center" means the Washington center for sustainable food management.

(2) "Department" means the department of ecology.

(3) "Organic material" has the same definition as provided in RCW 70A.205.015.

(4) "Plan" means the use food well Washington plan developed under RCW 70A.205.715.

NEW SECTION.     **Sec. 402.**     (1) The Washington center for sustainable food management is established within the department, to begin operations by January 1, 2024.

(2) The purpose of the center is to help coordinate statewide food waste reduction.

(3) The center may perform the following activities:

(a) Coordinate the implementation of the plan;

(b) Draft plan updates and measure progress towards actions, strategies, and the statewide goals established in section 101 of this act and RCW 70A.205.715(1);

(c) Maintain a website with current food waste reduction information and guidance for food service establishments, consumers, food processors, hunger relief organizations, and other sources of food waste;

(d) Provide staff support to multistate food waste reduction initiatives in which the state is participating;

(e) Maintain the consistency of the plan and other food waste reduction activities with the work of the Washington state conservation commission's food policy forum;

(f) Facilitate and coordinate public-private and nonprofit partnerships focused on food waste reduction, including through voluntary working groups;

(g) Collaborate with federal, state, and local government partners on food waste reduction initiatives;

1 (h) Develop and maintain maps or lists of locations of the food  
2 systems of Washington that identify food flows, where waste occurs,  
3 and opportunities to prevent food waste;

4 (i)(i) Collect and maintain data on food waste and wasted food in  
5 a manner that is generally consistent with the methods of collecting  
6 and maintaining such data used by federal agencies or in other  
7 jurisdictions, or both, to the greatest extent practicable;

8 (ii) Develop measurement methodologies and tools to uniformly  
9 track food donation data, food waste prevention data, and associated  
10 climate impacts resultant from food waste reduction efforts;

11 (j) Research and develop emerging organic materials and food  
12 waste reduction markets;

13 (k)(i) Develop and maintain statewide food waste reduction and  
14 food waste contamination reduction campaigns, in consultation with  
15 other state agencies and other stakeholders, including the  
16 development of waste prevention and food waste recovery promotional  
17 materials for distribution. These promotional materials may include  
18 online information, newsletters, bulletins, or handouts that inform  
19 food service establishment operators about the protections from civil  
20 and criminal liability under federal law and under RCW 69.80.031 when  
21 donating food; and

22 (ii) Develop guidance to support the distribution of promotional  
23 materials, including distribution by:

24 (A) Local health officers, at no cost to regulated food service  
25 establishments, including as part of normal, routine inspections of  
26 food service establishments; and

27 (B) State agencies, including the department of health and the  
28 department of agriculture, in conjunction with their statutory roles  
29 and responsibilities in regulating, monitoring, and supporting safe  
30 food supply chains and systems;

31 (l) Distribute and monitor grants dedicated to food waste  
32 prevention, rescue, and recovery; and

33 (m) Research and provide education, outreach, and technical  
34 assistance to local governments in support of the adoption of solid  
35 waste ordinances or policies that establish a financial disincentive  
36 for the generation of organic waste and for the ultimate disposal of  
37 organic materials in landfills.

38 (4) The department may enter into an interagency agreement with  
39 the department of health, the department of agriculture, or other



1 state agencies as necessary to fulfill the responsibilities of the  
2 center.

3 (5) The department may adopt any rules necessary to implement  
4 this chapter including, but not limited to, measures for the center's  
5 performance.

6 NEW SECTION. **Sec. 403.** A new section is added to chapter  
7 70A.205 RCW to read as follows:

8 (1) In order to obtain data as necessary to support the goals of  
9 the Washington center for sustainable food management created in  
10 section 402 of this act and to achieve the goals of RCW  
11 70A.205.715(1), the department may establish a voluntary reporting  
12 protocol for the receipt of reports by businesses that donate food  
13 under RCW 69.80.031 and recipients of the donated food, and may  
14 encourage the use of this voluntary reporting protocol by the  
15 businesses and recipients. The department may also request that a  
16 donating business or recipient of donated food provide information to  
17 the department regarding the volumes, types, and timing of food  
18 managed by the donating facility or business, and food waste and  
19 wasted food generated by the donating facility or business. To the  
20 extent practicable, the department must seek to obtain information  
21 under this section in a manner compatible with any information  
22 reported to the department of agriculture under RCW 43.23.290, and in  
23 a manner that minimizes the reporting and information-provision  
24 burdens of donating businesses and recipients.

25 (2) For the purposes of this subsection, "food waste" and "wasted  
26 food" have the same meaning as defined in RCW 70A.205.715.

27 **Sec. 404.** RCW 69.80.040 and 1983 c 241 s 4 are each amended to  
28 read as follows:

29 The department of agriculture shall maintain an information and  
30 referral service for persons and organizations that have notified the  
31 department of their desire to participate in the food donation  
32 program under this chapter. The department must coordinate with the  
33 department of ecology to ensure that the information and referral  
34 service required under this section is implemented in a manner  
35 consistent with the activities of sections 402 and 403 of this act.

36 NEW SECTION. **Sec. 405.** (1) By January 1, 2025, and in  
37 consultation with the office of the attorney general, the department

1 must research and adopt several model ordinances for optional use by  
2 counties and cities that provide for model mechanisms for commercial  
3 solid waste collection and disposal that are designed, in part, to  
4 establish a financial disincentive or other disincentives for the  
5 generation of organic waste and for the ultimate disposal of organic  
6 materials in landfills. The model ordinances must be designed to  
7 provide options that might be preferred by jurisdictions of different  
8 sizes and consider other key criteria applicable to local solid waste  
9 management circumstances.

10 (2)(a) The department must review the model ordinances created in  
11 this section under the provisions of chapter 43.21C RCW.

12 (b) A county or city that adopts a model ordinance created by the  
13 department under this section and that has been reviewed by the  
14 department under the provisions of chapter 43.21C RCW is not required  
15 to review the ordinance under the provisions of chapter 43.21C RCW.

16 (3) No city, town, or county is required to adopt the model  
17 ordinances created in this section.

18 NEW SECTION. **Sec. 406.** A new section is added to chapter 43.21C  
19 RCW to read as follows:

20 Amendments to regulations and other nonproject actions taken by a  
21 city or county to adopt or implement the model ordinance created by  
22 the department under section 405 of this act is not subject to the  
23 requirements of this chapter.

## 24 **PART 5**

### 25 **Funding and Incentives for Methane Emissions Reduction Activities** 26 **Associated with Organic Materials Management**

27 **Sec. 501.** RCW 89.08.615 and 2020 c 351 s 3 are each amended to  
28 read as follows:

29 (1) The commission shall develop a sustainable farms and fields  
30 grant program in consultation with the department of agriculture,  
31 Washington State University, and the United States department of  
32 agriculture natural resources conservation service.

33 (2) As funding allows, the commission shall distribute funds, as  
34 appropriate, to conservation districts and other public entities to  
35 help implement the projects approved by the commission.

36 (3) No more than (~~fifteen~~) 15 percent of the funds may be used  
37 by the commission to develop, or to consult or contract with private

1 or public entities, such as universities or conservation districts,  
2 to develop:

3 (a) An educational public awareness campaign and outreach about  
4 the sustainable farm and field program; or

5 (b) The grant program, including the production of analytical  
6 tools, measurement estimation and verification methods, cost-benefit  
7 measurements, and public reporting methods.

8 (4) No more than five percent of the funds may be used by the  
9 commission to cover the administrative costs of the program.

10 (5) No more than ~~((twenty))~~ 20 percent of the funds may be  
11 awarded to any single grant applicant.

12 (6) Allowable uses of grant funds include:

13 (a) Annual payments to enrolled participants for successfully  
14 delivered carbon storage or reduction;

15 (b) Up-front payments for contracted carbon storage;

16 (c) Down payments on equipment;

17 (d) Purchases of equipment;

18 (e) Purchase of seed, seedlings, spores, animal feed, and  
19 amendments;

20 (f) Services to landowners, such as the development of site-  
21 specific conservation plans to increase soil organic levels or to  
22 increase usage of precision agricultural practices, or design and  
23 implementation of best management practices to reduce livestock  
24 emissions; ~~((and))~~

25 (g) The purchase of compost spreading equipment, or financial  
26 assistance to farmers to purchase compost spreading equipment, for  
27 the annual use for at least three years of volumes of compost  
28 determined by the commission to be significant from materials  
29 composted at a site that is not owned or operated by the farmer;

30 (h) Scientific studies to evaluate and quantify the greenhouse  
31 gas emissions avoided as a result of using crop residues as a biofuel  
32 feedstock or to identify management practices that increase the  
33 greenhouse gas emissions avoided as a result of using crop residues  
34 as a biofuel feedstock;

35 (i) Efforts to support the farm use of anaerobic digester  
36 digestate, including scientific studies, education and outreach to  
37 farmers, and the purchase or lease of digestate spreading equipment;  
38 and

1       (j) Other equipment purchases or financial assistance deemed  
2 appropriate by the commission to fulfill the intent of RCW 89.08.610  
3 through 89.08.635.

4       (7) Grant applications are eligible for costs associated with  
5 technical assistance.

6       (8) Conservation districts and other public entities may apply  
7 for a single grant from the commission that serves multiple farmers.

8       (9) Grant applicants may apply to share equipment purchased with  
9 grant funds. Applicants for equipment purchase grants issued under  
10 this grant program may be farm, ranch, or aquaculture operations  
11 coordinating as individual businesses or as formal cooperative  
12 ventures serving farm, ranch, or aquaculture operations. Conservation  
13 districts, separately or jointly, may also apply for grant funds to  
14 operate an equipment sharing program.

15       (10) No contract for carbon storage or changes to management  
16 practices may exceed ((twenty-five)) 25 years. Grant contracts that  
17 include up-front payments for future benefits must be conditioned to  
18 include penalties for default due to negligence on the part of the  
19 recipient.

20       (11) The commission shall attempt to achieve a geographically  
21 fair distribution of funds across a broad group of crop types, soil  
22 management practices, and farm sizes.

23       (12) Any applications involving state lands leased from the  
24 department of natural resources must include the department's  
25 approval.

26       NEW SECTION.   **Sec. 502.**   A new section is added to chapter 15.04  
27 RCW to read as follows:

28       (1)(a) Subject to the availability of amounts appropriated for  
29 this specific purpose, the department must establish and implement a  
30 compost reimbursement program to reimburse farming operations in the  
31 state for purchasing and using compost products that were not  
32 generated by the farming operation, including transportation,  
33 spreading equipment, labor, fuel, and maintenance costs associated  
34 with spreading equipment. The grant reimbursements under the program  
35 begin July 1, 2023.

36       (b) For the purposes of this program, "farming operation" means:  
37 A commercial agricultural, silvicultural, or aquacultural facility or  
38 pursuit, including the care and production of livestock and livestock  
39 products, poultry and poultry products, apiary products, and plant

1 and animal production for nonfood uses; the planting, cultivating,  
2 harvesting, and processing of crops; and the farming or ranching of  
3 any plant or animal species in a controlled salt, brackish, or  
4 freshwater environment.

5 (2) To be eligible to participate in the reimbursement program, a  
6 farming operation must complete an eligibility review with the  
7 department prior to transporting or applying any compost products for  
8 which reimbursement is sought under this section. The purpose of the  
9 review is for the department to ensure that the proposed transport  
10 and application of compost products is consistent with the  
11 department's agricultural pest control rules established under  
12 chapter 17.24 RCW. A farming operation must also verify that it will  
13 allow soil sampling to be conducted by the department upon request  
14 before compost application and until at least 10 years after the last  
15 grant funding is used by the farming operation, as necessary to  
16 establish a baseline of soil quality and carbon storage and for  
17 subsequent department evaluations to assist the department's  
18 reporting requirements under subsection (8) of this section.

19 (3) The department must create a form for eligible farming  
20 operations to apply for cost reimbursement for costs from purchasing  
21 and using compost from facilities with solid waste handling permits,  
22 including transportation, equipment, spreading, and labor costs. All  
23 applications for cost reimbursement must be submitted on the form  
24 along with invoices, receipts, or other documentation acceptable to  
25 the department of the costs of purchasing and using compost products  
26 for which the applicant is requesting reimbursement, as well as a  
27 brief description of what each purchased item will be used for. The  
28 department may request that an applicant provide information to  
29 verify the source, size, sale weight, or amount of compost products  
30 purchased and the cost of transportation, equipment, spreading, and  
31 labor. The applicant must also declare that it is not seeking  
32 reimbursement for purchase or labor costs for:

33 (a) Its own compost products; or

34 (b) Compost products that it has transferred, or intends to  
35 transfer, to another individual or entity, whether or not for  
36 compensation.

37 (4) A farming operation may submit only one application per  
38 fiscal year in which the program is in effect for purchases made and  
39 usage costs incurred during the fiscal year that begins on July 1st  
40 and ends on June 30th. Applications for reimbursement must be filed

1 before the end of the fiscal year in which purchases were made and  
2 usage costs incurred.

3 (5) The department must distribute reimbursement funds, subject  
4 to the following limitations:

5 (a) A farming operation is not eligible to receive reimbursement  
6 if the farming operation's application was not found eligible for  
7 reimbursement by the department under subsection (2) of this section  
8 prior to the transport or use of compost;

9 (b) A farming operation is not eligible to receive reimbursement  
10 for more than 50 percent of the costs it incurs each fiscal year for  
11 the purchase and use of compost products, including transportation,  
12 equipment, spreading, and labor costs;

13 (c) A farming operation is not eligible to receive more than  
14 \$10,000 per fiscal year;

15 (d) A farming operation is not eligible to receive reimbursement  
16 for its own compost products or compost products that it has  
17 transferred, or intends to transfer, to another individual or entity,  
18 whether or not for compensation; and

19 (e) A farming operation is not eligible to receive reimbursement  
20 for compost products that were not purchased from a facility with a  
21 solid waste handling permit.

22 (6) The applicant shall indemnify and hold harmless the state and  
23 its officers, agents, and employees from all claims arising out of or  
24 resulting from the compost products purchased that are subject to the  
25 compost reimbursement program under this section.

26 (7) There is established within the department a compost  
27 reimbursement program manager position. The compost reimbursement  
28 program manager must possess knowledge and expertise in the area of  
29 program management necessary to carry out the duties of the position,  
30 which are to:

31 (a) Facilitate the division and distribution of available costs  
32 for reimbursement; and

33 (b) Manage the day-to-day coordination of the compost  
34 reimbursement program.

35 (8) In compliance with RCW 43.01.036, the department must submit  
36 an annual report to the appropriate committees of the legislature by  
37 January 15th of each year of the program in which grants have been  
38 issued or completed. The report must include:

39 (a) The amount of compost for which reimbursement was sought  
40 under the program;

(b) The qualitative or quantitative effects of the program on soil quality and carbon storage; and

(c) A periodically updated evaluation of the benefits and costs to the state of expanding or furthering the strategies promoted in the program.

**Sec. 503.** RCW 43.155.020 and 2017 3rd sp.s. c 10 s 2 are each amended to read as follows:

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

(1) "Board" means the public works board created in RCW 43.155.030.

(2) "Capital facility plan" means a capital facility plan required by the growth management act under chapter 36.70A RCW or, for local governments not fully planning under the growth management act, a plan required by the public works board.

(3) "Department" means the department of commerce.

(4) "Financing guarantees" means the pledge of money in the public works assistance account, or money to be received by the public works assistance account, to the repayment of all or a portion of the principal of or interest on obligations issued by local governments to finance public works projects.

(5) "Local governments" means cities, towns, counties, special purpose districts, and any other municipal corporations or quasi-municipal corporations in the state excluding school districts and port districts.

(6) "Public works project" means a project of a local government for the planning, acquisition, construction, repair, reconstruction, replacement, rehabilitation, or improvement of streets and roads, bridges, water systems, or storm and sanitary sewage systems, lead remediation of drinking water systems, and solid waste facilities, including recycling facilities and composting and other organic materials management facilities. A planning project may include the compilation of biological, hydrological, or other data on a county, drainage basin, or region necessary to develop a base of information for a capital facility plan.

(7) "Solid waste or recycling project" means remedial actions necessary to bring abandoned or closed landfills into compliance with regulatory requirements and the repair, restoration, and replacement of existing solid waste transfer, recycling facilities, and landfill

1 projects limited to the opening of landfill cells that are in  
2 existing and permitted landfills.

3 (8) "Technical assistance" means training and other services  
4 provided to local governments to: (a) Help such local governments  
5 plan, apply, and qualify for loans, grants, and financing guarantees  
6 from the board, and (b) help local governments improve their ability  
7 to plan for, finance, acquire, construct, repair, replace,  
8 rehabilitate, and maintain public facilities.

9 (9) "Value planning" means a uniform approach to assist in  
10 decision making through systematic evaluation of potential  
11 alternatives to solving an identified problem.

## 12 PART 6

### 13 Organic Materials Management Facility Siting

14 **Sec. 601.** RCW 36.70.330 and 1985 c 126 s 3 are each amended to  
15 read as follows:

16 The comprehensive plan shall consist of a map or maps, and  
17 descriptive text covering objectives, principles and standards used  
18 to develop it, and shall include each of the following elements:

19 (1) A land use element which designates the proposed general  
20 distribution and general location and extent of the uses of land for  
21 agriculture, housing, commerce, industry, recreation, education,  
22 public buildings and lands, and other categories of public and  
23 private use of land, including a statement of the standards of  
24 population density and building intensity recommended for the various  
25 areas in the jurisdiction and estimates of future population growth  
26 in the area covered by the comprehensive plan, all correlated with  
27 the land use element of the comprehensive plan. The land use element  
28 shall also provide for protection of the quality and quantity of  
29 groundwater used for public water supplies and shall review drainage,  
30 flooding, and stormwater runoff in the area and nearby jurisdictions  
31 and provide guidance for corrective actions to mitigate or cleanse  
32 those discharges that pollute Puget Sound or waters entering Puget  
33 Sound. Development regulations to implement comprehensive plans under  
34 this chapter that are newly developed, updated, or amended after  
35 January 1, 2025, must allow for the siting of organic materials  
36 management facilities in the areas identified in RCW  
37 70A.205.040(3)(a)(i) to the extent necessary to provide for the



1 establishment of the organic materials management volumetric capacity  
2 identified under RCW 70A.205.040(3)(a)(ii);

3 (2) A circulation element consisting of the general location,  
4 alignment and extent of major thoroughfares, major transportation  
5 routes, trunk utility lines, and major terminal facilities, all of  
6 which shall be correlated with the land use element of the  
7 comprehensive plan;

8 (3) Any supporting maps, diagrams, charts, descriptive material  
9 and reports necessary to explain and supplement the above elements.

10 NEW SECTION. Sec. 602. A new section is added to chapter 36.70A  
11 RCW to read as follows:

12 Development regulations to implement comprehensive plans under  
13 this chapter that are newly developed, updated, or amended after  
14 January 1, 2025, must allow for the siting of organic materials  
15 management facilities in the areas identified in RCW  
16 70A.205.040(3)(a)(i) to the extent necessary to provide for the  
17 establishment of the organic materials management volumetric capacity  
18 identified under RCW 70A.205.040(3)(a)(ii).

19 NEW SECTION. Sec. 603. A new section is added to chapter 35.63  
20 RCW to read as follows:

21 For cities not planning under RCW 36.70A.040, development  
22 regulations to implement comprehensive plans under RCW 35.63.100 that  
23 are newly developed, updated, or amended after January 1, 2025, must  
24 allow for the siting of organic materials management facilities in  
25 the areas identified by the county in which the city is located under  
26 RCW 70A.205.040(3)(a)(i) to the extent necessary to provide for the  
27 establishment of the organic materials management volumetric capacity  
28 identified under RCW 70A.205.040(3)(a)(ii).

29 NEW SECTION. Sec. 604. A new section is added to chapter 35A.63  
30 RCW to read as follows:

31 For cities not planning under RCW 36.70A.040, development  
32 regulations to implement comprehensive plans required under RCW  
33 35A.63.060 that are newly developed, updated, or amended after  
34 January 1, 2025, must allow for the siting of organic materials  
35 management facilities in the areas identified by the county in which  
36 the city is located under RCW 70A.205.040(3)(a)(i) to the extent  
37 necessary to provide for the establishment of the organic materials

management volumetric capacity identified under RCW  
70A.205.040(3)(a)(ii).

## PART 7

### Organic Materials Procurement

NEW SECTION. **Sec. 701.** A new section is added to chapter 43.19A  
RCW to read as follows:

(1) By January 1, 2023, the following cities or counties shall  
adopt a compost procurement ordinance to implement RCW 43.19A.120:

(a) Each city or county with a population greater than 25,000  
residents as measured by the office of financial management using the  
most recent population data available; and

(b) Each city or county in which organic material collection  
services are provided under chapter 70A.205 RCW.

(2) A city or county that newly exceeds a population of 25,000  
residents after January 1, 2023, as measured by the office of  
financial management, must adopt an ordinance under this subsection  
no later than 12 months after the office of financial management's  
determination that the local government's population has exceeded  
25,000.

(3) In developing a compost procurement ordinance, each city and  
county shall plan for the use of compost in the following categories:

(a) Landscaping projects;

(b) Construction and postconstruction soil amendments;

(c) Applications to prevent erosion, filter stormwater runoff,  
promote vegetation growth, or improve the stability and longevity of  
roadways; and

(d) Low-impact development and green infrastructure to filter  
pollutants or keep water on-site, or both.

(4) Each city or county that adopts an ordinance under subsection  
(1) or (2) of this section must develop strategies to inform  
residents about the value of compost and how the jurisdiction uses  
compost in its operations in the jurisdiction's comprehensive solid  
waste management plan pursuant to RCW 70A.205.045.

(5) By December 31, 2024, and each December 31st of even-numbered  
years thereafter, each city or county that adopts an ordinance under  
subsection (1) or (2) of this section must submit a report covering  
the previous year's compost procurement activities to the department  
of ecology that contains the following information:

1 (a) The total tons of organic material diverted throughout the  
2 year;

3 (b) The volume and cost of compost purchased throughout the year;  
4 and

5 (c) The source or sources of the compost.

6 (6) Cities and counties that are required to adopt an ordinance  
7 under subsection (1) or (2) of this section shall give priority to  
8 purchasing compost products from companies that produce compost  
9 products locally, are certified by a nationally recognized  
10 organization, and produce compost products that are derived from  
11 municipal solid waste compost programs and meet quality standards  
12 comparable to standards adopted by the department of transportation  
13 or adopted by rule by the department of ecology.

14 (7) Cities and counties may enter into collective purchasing  
15 agreements if doing so is more cost-effective or efficient.

16 (8) Nothing in this section requires a compost processor to:

17 (a) Enter into a purchasing agreement with a city or county;

18 (b) Sell finished compost to meet this requirement; or

19 (c) Accept or process food waste or compostable products.

20 **Sec. 702.** RCW 39.30.040 and 2013 c 24 s 1 are each amended to  
21 read as follows:

22 (1) Whenever a unit of local government is required to make  
23 purchases from the lowest bidder or from the supplier offering the  
24 lowest price for the items desired to be purchased, the unit of local  
25 government may, at its option when awarding a purchase contract, take  
26 into consideration tax revenue it would receive from purchasing the  
27 supplies, materials, or equipment from a supplier located within its  
28 boundaries. The unit of local government must award the purchase  
29 contract to the lowest bidder after such tax revenue has been  
30 considered. However, any local government may allow for preferential  
31 purchase of products made from recycled materials or products that  
32 may be recycled or reused. Any local government may allow for  
33 preferential purchase of compost to meet the requirements of RCW  
34 43.19A.120. Any unit of local government which considers tax revenue  
35 it would receive from the imposition of taxes upon a supplier located  
36 within its boundaries must also consider tax revenue it would receive  
37 from taxes it imposes upon a supplier located outside its boundaries.

38 (2) A unit of local government may award a contract to a bidder  
39 submitting the lowest bid before taxes are applied. The unit of local

1 government must provide notice of its intent to award a contract  
2 based on this method prior to bids being submitted. For the purposes  
3 of this subsection (2), "taxes" means only those taxes that are  
4 included in "tax revenue" as defined in this section.

5 (3) The definitions in this subsection apply throughout this  
6 section unless the context clearly requires otherwise.

7 (a) "Tax revenue" means sales taxes that units of local  
8 government impose upon the sale of supplies, materials, or equipment  
9 from the supplier to units of local government, and business and  
10 occupation taxes that units of local government impose upon the  
11 supplier that are measured by the gross receipts of the supplier from  
12 the sale.

13 (b) "Unit of local government" means any county, city, town,  
14 metropolitan municipal corporation, public transit benefit area,  
15 county transportation authority, or other municipal or quasi-  
16 municipal corporation authorized to impose sales and use taxes or  
17 business and occupation taxes.

18 NEW SECTION. **Sec. 703.** A new section is added to chapter 43.19A  
19 RCW to read as follows:

20 A contract by a local government or state agency must require the  
21 use of compost products to the maximum extent economically feasible  
22 to meet the requirements established in RCW 43.19A.120.

## 23 **PART 8**

### 24 **Product Degradability Labeling**

25 **Sec. 801.** RCW 70A.455.010 and 2019 c 265 s 1 are each amended to  
26 read as follows:

27 (1) The legislature finds and declares that it is the public  
28 policy of the state that:

29 (a) Environmental marketing claims for plastic products, whether  
30 implicit or implied, should adhere to uniform and recognized  
31 standards for "compostability" and "biodegradability," since  
32 misleading, confusing, and deceptive labeling can negatively impact  
33 local composting programs and compost processors. Plastic products  
34 marketed as being "compostable" should be readily and easily  
35 identifiable as meeting these standards;

36 (b) Legitimate and responsible packaging and plastic product  
37 manufacturers are already properly labeling their compostable

1 products, but many manufacturers are not. Not all compost facilities  
2 and their associated processing technologies accept or are required  
3 to accept compostable packaging as feedstocks. However, implementing  
4 a standardized system and test methods may create the ability for  
5 them to take these products in the future.

6 (2) Therefore, it is the intent of the legislature to authorize  
7 the (~~state's attorney general and local governments~~) department of  
8 ecology, cities, and counties to pursue false or misleading  
9 environmental claims and "greenwashing" for plastic products claiming  
10 to be "compostable" or "biodegradable" when in fact they are not.

11 **Sec. 802.** RCW 70A.455.020 and 2019 c 265 s 2 are each amended to  
12 read as follows:

13 The definitions in this section apply throughout this chapter  
14 unless the context clearly requires otherwise.

15 (1) "ASTM" means the American society for testing and materials.

16 (2) "Biodegradable mulch film" means film plastic used as a  
17 technical tool in commercial farming applications that biodegrades in  
18 soil after being used, and:

19 (a) The film product fulfills plant growth and regulated metals  
20 requirements of ASTM D6400; and

21 (b)(i) Meets the requirements of Vincotte's "OK Biodegradable  
22 Soil" certification scheme, as that certification existed as of  
23 January 1, 2019;

24 (ii) At ambient temperatures and in soil, shows at least  
25 (~~ninety~~) 90 percent biodegradation absolute or relative to  
26 microcrystalline cellulose in less than two years' time, tested  
27 according to ISO 17556 or ASTM 5988 standard test methods, as those  
28 test methods existed as of January 1, 2019; or

29 (iii) Meets the requirements of EN 17033 "plastics-biodegradable  
30 mulch films for use in agriculture and horticulture" as it existed on  
31 January 1, 2019.

32 (3) "Federal trade commission guides" means the United States  
33 federal trade commission's guides for the use of environmental  
34 marketing claims (Part 260, commencing at section 260.1),  
35 compostability claims, including section 260.8, and degradation  
36 claims (subchapter B of chapter I of Title 16 of the Code of Federal  
37 Regulations), as those guides existed as of January 1, 2019.

38 (4) "Film product" means a bag, sack, wrap, or other sheet film  
39 product.

1 (5) "Food service product" (~~means a product including, but not~~  
2 ~~limited to, containers, plates, bowls, cups, lids, meat trays,~~  
3 ~~straws, deli rounds, cocktail picks, splash sticks, condiment~~  
4 ~~packaging, clam shells and other hinged or lidded containers,~~  
5 ~~sandwich wrap, utensils, sachets, portion cups, and other food~~  
6 ~~service products that are intended for one-time use and used for food~~  
7 ~~or drink offered for sale or use~~) has the same meaning as defined in  
8 RCW 70A.245.010.

9 (6) (~~"Manufacturer" means a person, firm, association,~~  
10 ~~partnership, or corporation that produces a product.~~

11 ~~(7))~~ "Person" means individual, firm, association,  
12 copartnership, political subdivision, government agency,  
13 municipality, industry, public or private corporation, or any other  
14 entity whatsoever.

15 ~~((8))~~ (7) "Plastic food packaging and food service products"  
16 means food packaging and food service products that is composed of:

17 (a) Plastic; or

18 (b) Fiber or paper with a plastic coating, window, component, or  
19 additive.

20 ~~((9))~~ (8) "Plastic product" means a product made of plastic,  
21 whether alone or in combination with another material including, but  
22 not limited to, paperboard. A plastic product includes, but is not  
23 limited to, any of the following:

24 (a) A product or part of a product that is used, bought, or  
25 leased for use by a person for any purpose;

26 (b) A package or a packaging component including, but not limited  
27 to, packaging peanuts;

28 (c) A film product; or

29 (d) Plastic food packaging and food service products.

30 ~~((10))~~ (9) "Standard specification" means either:

31 (a) ASTM D6400 - standard specification labeling of plastics  
32 designed to be aerobically composted in municipal or industrial  
33 facilities, as it existed as of January 1, 2019; or

34 (b) ASTM D6868 - standard specification for labeling of end items  
35 that incorporate plastics and polymers as coatings or additives with  
36 paper and other substrates designed to be aerobically composted in  
37 municipal or industrial facilities, as it existed as of January 1,  
38 2019.

1       ~~((11)(a))~~ "Supplier" means a person, firm, association,  
2 partnership, company, or corporation that sells, offers for sale,  
3 offers for promotional purposes, or takes title to a product.

4       ~~(b)~~ "Supplier" does not include a person, firm, association,  
5 partnership, company, or corporation that sells products to end users  
6 as a retailer.

7       ~~(12))~~ (10) "Utensil" means a product designed to be used by a  
8 consumer to facilitate the consumption of food or beverages,  
9 including knives, forks, spoons, cocktail picks, chopsticks, splash  
10 sticks, and stirrers.

11       (11) "Department" means the department of ecology.

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

15       (a) If the product is sold under the manufacturer's own brand or  
16 lacks identification of a brand, the producer is the person who  
17 manufactures the product;

18       (b) If the product is manufactured by a person other than the  
19 brand owner, the producer is the person that is the licensee of a  
20 brand or trademark under which a product is used in a commercial  
21 enterprise, sold, offered for sale, or distributed in or into this  
22 state, whether or not the trademark is registered in this state,  
23 unless the manufacturer or brand owner of the product has agreed to  
24 accept responsibility under this chapter; or

25       (c) If there is no person described in (a) and (b) of this  
26 subsection over whom the state can constitutionally exercise  
27 jurisdiction, the producer is the person who imports or distributes  
28 the product in or into the state.

29       **Sec. 803.** RCW 70A.455.040 and 2019 c 265 s 4 are each amended to  
30 read as follows:

31       (1)~~((a))~~ A product labeled as "compostable" that is sold,  
32 offered for sale, or distributed for use in Washington by a  
33 ~~((supplier or manufacturer))~~ producer must:

34       ~~((i))~~ (a) Meet ASTM standard specification D6400;

35       ~~((ii))~~ (b) Meet ASTM standard specification D6868; or

36       ~~((iii))~~ (c) Be comprised of wood, which includes renewable  
37 wood, or fiber-based substrate only;

38       ~~((b))~~ (2) A product described in ~~((a)(i) or (ii) of this))~~  
39 subsection (1)(a) or (b) of this section must:

1       ~~((i))~~ (a) Meet labeling requirements established under the  
2 United States federal trade commission's guides; and

3       ~~((ii))~~ (b) Feature labeling that:

4       ~~((A))~~ (i) Meets industry standards for being distinguishable  
5 upon quick inspection in both public sorting areas and in processing  
6 facilities;

7       ~~((B))~~ (ii) Uses a logo indicating the product has been  
8 certified by a recognized third-party independent verification body  
9 as meeting the ASTM standard specification; ~~((and~~

10       ~~(C))~~ (iii) Displays the word "compostable," where possible,  
11 indicating the product has been tested by a recognized third-party  
12 independent body and meets the ASTM standard specification; and

13       (iv) Uses green, beige, or brown labeling, color striping, or  
14 other green, beige, or brown symbols, colors, tinting, marks, or  
15 design patterns that help differentiate compostable items from  
16 noncompostable items.

17       ~~((2) A compostable product described in subsection (1)(a)(i) or~~  
18 ~~(ii) of this section must be considered compliant with the~~  
19 ~~requirements of this section if it:~~

20       ~~(a) Has green or brown labeling;~~

21       ~~(b) Is labeled as compostable; and~~

22       ~~(c) Uses distinctive color schemes, green or brown color~~  
23 ~~striping, or other adopted symbols, colors, marks, or design patterns~~  
24 ~~that help differentiate compostable items from noncompostable~~  
25 ~~materials.))~~

26       **Sec. 804.** RCW 70A.455.050 and 2019 c 265 s 5 are each amended to  
27 read as follows:

28       (1) A ~~((manufacturer or supplier))~~ producer of a film bag that  
29 meets ASTM standard specification D6400 and is distributed or sold by  
30 retailers must ensure that the film bag is readily and easily  
31 identifiable from other film bags in a manner that is consistent with  
32 the federal trade commission guides.

33       (2) For purposes of this section, "readily and easily  
34 identifiable" products must meet the following requirements:

35       (a) Be labeled with a certification logo indicating the bag meets  
36 the ASTM D6400 standard specification if the bag has been certified  
37 as meeting that standard by a recognized third-party independent  
38 verification body;

39       (b) Be labeled in accordance with one of the following:



(i) The bag is tinted or made of a uniform color of green, beige, or brown and labeled with the word "compostable" on one side of the bag and the label must be at least one inch in height; or

(ii) Be labeled with the word "compostable" on both sides of the bag and the label must be one of the following:

(A) Green, beige, or brown color lettering at least one inch in height; or

(B) Within a contrasting green, beige, or brown color band of at least one inch in height on both sides of the bag with color contrasting lettering of at least one-half inch in height; and

(c) Meet industry standards for being distinguishable upon quick inspection in both public sorting areas and in processing facilities.

(3) If a bag is smaller than (~~fourteen~~) 14 inches by (~~fourteen~~) 14 inches, the lettering and stripe required under subsection (2)(b)(ii) of this section must be in proportion to the size of the bag.

(4) A film bag that meets ASTM standard specification D6400 that is sold or distributed in this state may not display a chasing arrow resin identification code or recycling type of symbol in any form.

(5) A (~~manufacturer or supplier~~) producer is required to comply with this section only to the extent that the labeling requirements do not conflict with the federal trade commission guides.

**Sec. 805.** RCW 70A.455.060 and 2020 c 20 s 1446 are each amended to read as follows:

(1)(a) A (~~manufacturer or supplier~~) producer of plastic food service products or film products that meet ASTM standard specification D6400 or ASTM standard specification D6868 must ensure that the items are readily and easily identifiable from other plastic food service products or plastic film products in a manner that is consistent with the federal trade commission guides.

(b) Film bags are exempt from the requirements of this section, and are instead subject to the requirements of RCW 70A.455.050.

(2) For the purposes of this section, "readily and easily identifiable" products must:

(a) Be labeled with a logo indicating the product has been certified by a recognized third-party independent verification body as meeting the ASTM standard specification;

(b) Be labeled with the word "compostable," where possible, indicating the food packaging or film product has been tested by a

1 recognized third-party independent body and meets the ASTM standard  
2 specification; ~~((and))~~

3 (c) Meet industry standards for being distinguishable upon quick  
4 inspection in both public sorting areas and in processing facilities;

5 (d) If the product is a plastic food service product or food  
6 contact film product, be at least partially colored or partially  
7 tinted green, beige, or brown, or have a green, beige, or brown  
8 stripe or band at least .25 inches wide; and

9 (e) If the product is a nonfood contact film product, be at least  
10 partially colored or partially tinted green or have a green stripe or  
11 band at least .25 inches wide and display the word "compostable".

12 ~~((A compostable product described in subsection (1) of this~~  
13 ~~section must be considered compliant with the requirements of this~~  
14 ~~section if it:~~

15 ~~(a) Has green or brown labeling;~~

16 ~~(b) Is labeled as compostable; and~~

17 ~~(c) Uses distinctive color schemes, green or brown color~~  
18 ~~striping, or other adopted symbols, colors, marks, or design patterns~~  
19 ~~that help differentiate compostable items from noncompostable~~  
20 ~~materials.~~

21 ~~(4)) It is encouraged that each product described in subsection~~  
22 ~~(1) of this section((+~~

23 ~~(a) Display)) display labeling language via printing, embossing,~~  
24 ~~or compostable adhesive stickers using, when possible, either the~~  
25 ~~colors green, beige, or brown that contrast with background product~~  
26 ~~color for easy identification((+or~~

27 ~~(b) Be tinted green or brown)).~~

28 ~~((+5)) (4) Graphic elements are encouraged to increase~~  
29 ~~legibility of the word "compostable" and overall product distinction~~  
30 ~~that may include text boxes, stripes, bands, or a green, beige, or~~  
31 ~~brown tint of the product.~~

32 ~~((+6)) (5) A ((manufacturer or supplier)) producer is required~~  
33 ~~to comply with this section only to the extent that the labeling~~  
34 ~~requirements do not conflict with the federal trade commission~~  
35 ~~guides.~~

36 **Sec. 806.** RCW 70A.455.070 and 2020 c 20 s 1447 are each amended  
37 to read as follows:

38 (1) A ((manufacturer or supplier of film products or food service  
39 products)) producer of plastic film bags sold, offered for sale, or

distributed for use in Washington that does not meet the applicable ASTM standard specifications provided in RCW 70A.455.050 (~~and 70A.455.060~~) is:

~~((1))~~ (a) Prohibited from using tinting, color schemes, labeling, ~~((and))~~ or terms that are required of products that meet the applicable ASTM standard specifications under RCW 70A.455.050 (~~and 70A.455.060~~);

~~((2))~~ (b) Discouraged from using ~~((coloration))~~ labeling, images, and terms that may reasonably be anticipated to confuse consumers into believing that noncompostable ~~((bags and food service packaging))~~ products are compostable; and

~~((3))~~ (c) Encouraged to use ~~((coloration))~~ labeling, images, and terms to help consumers identify noncompostable bags ~~((and food service packaging))~~ as either: ~~((a))~~ (i) Suitable for recycling; or ~~((b))~~ (ii) necessary to dispose as waste.

(2) A producer of food service products, or plastic film products other than plastic film bags subject to subsection (1) of this section, sold, offered for sale, or distributed for use in Washington that does not meet the applicable ASTM standard specifications provided in RCW 70A.455.060 is:

(a) Prohibited from using labeling, or terms that are required of products that meet the applicable ASTM standard specifications under RCW 70A.455.060;

(b) Discouraged from using labeling, images, and terms that may reasonably be anticipated to confuse consumers into believing that noncompostable products are compostable; and

(c) Encouraged to use tinting, coloration, labeling, images, and terms to help consumers identify film products and food service packaging as either: (i) Suitable for recycling; or (ii) necessary to dispose as waste.

**Sec. 807.** RCW 70A.455.080 and 2019 c 265 s 8 are each amended to read as follows:

(1) Upon the request by a person, including the department, a ~~((manufacturer or supplier))~~ producer shall submit to that person or the department, within ~~((ninety))~~ 90 days of the request, nonconfidential business information and documentation demonstrating compliance with this chapter, in a format that is easy to understand and scientifically accurate.

1 (2) Upon request by a commercial compost processing facility,  
2 (~~((manufacturers))~~) producers of compostable products are encouraged to  
3 provide the facility with information regarding the technical aspects  
4 of a commercial composting environment, such as heat or moisture, in  
5 which the (~~((manufacturer's))~~) producer's product has been field tested  
6 and found to degrade.

7 **Sec. 808.** RCW 70A.455.090 and 2020 c 20 s 1448 are each amended  
8 to read as follows:

9 (1)(a) The (~~((state, acting through the attorney general,))~~)  
10 department and cities and counties have concurrent authority to  
11 enforce this chapter and to issue and collect civil penalties for a  
12 violation of this chapter, subject to the conditions in this section  
13 and RCW 70A.455.100. An enforcing government entity may impose a  
14 civil penalty in the amount of up to (~~((two thousand dollars))~~) \$2,000  
15 for the first violation of this chapter, up to (~~((five thousand~~  
16 ~~dollars))~~) \$5,000 for the second violation of this chapter, and up to  
17 (~~((ten thousand dollars))~~) \$10,000 for the third and any subsequent  
18 violation of this chapter. If a (~~((manufacturer or supplier))~~) producer  
19 has paid a prior penalty for the same violation to a different  
20 government entity with enforcement authority under this subsection,  
21 the penalty imposed by a government entity is reduced by the amount  
22 of the payment.

23 (b) The enforcement of this chapter must be based primarily on  
24 complaints filed with the department and cities and counties. The  
25 department must establish a forum for the filing of complaints.  
26 Cities, counties, or any person may file complaints with the  
27 department using the forum, and cities and counties may review  
28 complaints filed with the department via the forum. The forum  
29 established by the department may include a complaint form on the  
30 department's website, a telephone hotline, or a public outreach  
31 strategy relying upon electronic social media to receive complaints  
32 that allege violations. The department, in collaboration with the  
33 cities and counties, must provide education and outreach activities  
34 to inform retail establishments, consumers, and producers about the  
35 requirements of this chapter.

36 (2) (~~((Any civil penalties collected pursuant to this section must~~  
37 ~~be paid to the office of the city attorney, city prosecutor, district~~  
38 ~~attorney, or attorney general, whichever office brought the action.~~  
39 ~~Penalties collected by the attorney general on behalf of the state~~

1 ~~must be deposited in the compostable products revolving account~~  
2 ~~created in RCW 70A.455.110))~~ Penalties issued by the department are  
3 appealable to the pollution control hearings board established in  
4 chapter 43.21B RCW.

5 (3) The remedies provided by this section are not exclusive and  
6 are in addition to the remedies that may be available pursuant to  
7 chapter 19.86 RCW or other consumer protection laws, if applicable.

8 (4) In addition to penalties recovered under this section, the  
9 enforcing ~~((government entity))~~ city or county may recover reasonable  
10 enforcement costs and attorneys' fees from the liable ~~((manufacturer~~  
11 ~~or supplier))~~ producer.

12 **Sec. 809.** RCW 70A.455.100 and 2020 c 20 s 1449 are each amended  
13 to read as follows:

14 ~~((Manufacturers and suppliers))~~ (1) Producers who violate the  
15 requirements of this chapter are subject to civil penalties described  
16 in RCW 70A.455.090. A specific violation is deemed to have occurred  
17 upon the sale of noncompliant product by stock-keeping unit number or  
18 unique item number. The repeated sale of the same noncompliant  
19 product by stock-keeping unit number or unique item number is  
20 considered a single violation. ~~((A city, county, or the state))~~

21 (2)(a) A city or county enforcing a requirement of this chapter  
22 must send a written notice and a copy of the requirements to a  
23 noncompliant ~~((manufacturer or supplier))~~ producer of an alleged  
24 violation, who will have ~~((ninety))~~ 90 days to become compliant. ~~((A~~  
25 ~~city, county, or the state may assess a first penalty if the~~  
26 ~~manufacturer or supplier has not met the requirements ninety days~~  
27 ~~following the date the notification was sent. A city, county, or the~~  
28 ~~state))~~

29 (b) A city or county enforcing a requirement of this chapter may  
30 assess a first penalty if the producer has not met the requirements  
31 90 days following the date the notification was sent. A city or  
32 county may impose second, third, and subsequent penalties on a  
33 ~~((manufacturer or supplier))~~ producer that remains noncompliant with  
34 the requirements of this chapter for every month of noncompliance.

35 (3) The department may only impose penalties under this chapter  
36 consistent with the standards established in RCW 43.21B.300.

37 NEW SECTION. **Sec. 810.** A new section is added to chapter  
38 70A.455 RCW to read as follows:

(1) The department may adopt rules as necessary for the purpose of implementing, administering, and enforcing this chapter.

(2) Producers of a product subject to RCW 70A.455.040, 70A.455.050, or 70A.455.060 must submit, under penalty of perjury, a declaration that the product meets the standards established under those sections of this chapter for the product. This declaration must be submitted to the department:

(a) By January 1, 2024, for a product that is or will be sold or distributed into Washington beginning January 1, 2024;

(b) Prior to the sale or distribution of a product newly sold or distributed into Washington after January 1, 2024; and

(c) Prior to the sale or distribution of a product whose method of compliance with the standards established in RCW 70A.455.040, 70A.455.050, or 70A.455.060 is materially changed from the method of compliance used at the last declaration submission under this section.

(3) The department must begin enforcing the requirements of this chapter by July 1, 2024.

**Sec. 811.** RCW 70A.455.030 and 2019 c 265 s 3 are each amended to read as follows:

(1) Except as provided in this chapter, no (~~manufacturer or supplier~~) producer may sell, offer for sale, or distribute for use in this state a plastic product that is labeled with the term "biodegradable," "degradable," "decomposable," "oxo-degradable," or any similar form of those terms, or in any way imply that the plastic product will break down, fragment, biodegrade, or decompose in a landfill or other environment.

(2) This section does not apply to biodegradable mulch film that meets the required testing and has the appropriate third-party certifications.

**Sec. 812.** RCW 43.21B.110 and 2021 c 316 s 41 and 2021 c 313 s 16 are each reenacted and amended to read as follows:

(1) The hearings board shall only have jurisdiction to hear and decide appeals from the following decisions of the department, the director, local conservation districts, the air pollution control boards or authorities as established pursuant to chapter 70A.15 RCW, local health departments, the department of natural resources, the

department of fish and wildlife, the parks and recreation commission, and authorized public entities described in chapter 79.100 RCW:

(a) Civil penalties imposed pursuant to RCW 18.104.155, 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070, 70A.515.060, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080, 70A.65.200, 70A.455.090, 76.09.170, 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

(b) Orders issued pursuant to RCW 18.104.043, 18.104.060, 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070, 70A.245.020, 70A.65.200, 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

(c) Except as provided in RCW 90.03.210(2), the issuance, modification, or termination of any permit, certificate, or license by the department or any air authority in the exercise of its jurisdiction, including the issuance or termination of a waste disposal permit, the denial of an application for a waste disposal permit, the modification of the conditions or the terms of a waste disposal permit, or a decision to approve or deny an application for a solid waste permit exemption under RCW 70A.205.260.

(d) Decisions of local health departments regarding the grant or denial of solid waste permits pursuant to chapter 70A.205 RCW.

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

(f) Decisions of the department regarding waste-derived fertilizer or micronutrient fertilizer under RCW 15.54.820, and decisions of the department regarding waste-derived soil amendments under RCW 70A.205.145.

(g) Decisions of local conservation districts related to the denial of approval or denial of certification of a dairy nutrient management plan; conditions contained in a plan; application of any dairy nutrient management practices, standards, methods, and technologies to a particular dairy farm; and failure to adhere to the plan review and approval timelines in RCW 90.64.026.

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

(i) Decisions of the department of natural resources, the department of fish and wildlife, and the department that are reviewable under chapter 76.09 RCW, and the department of natural

resources' appeals of county, city, or town objections under RCW 76.09.050(7).

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

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

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

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

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

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

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

(a) Hearings required by law to be conducted by the shorelines hearings board pursuant to chapter 90.58 RCW.

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

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

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

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

**Sec. 813.** RCW 43.21B.300 and 2021 c 316 s 42 and 2021 c 313 s 17 are each reenacted and amended to read as follows:

(1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160, 70A.205.280, 70A.300.090, 70A.20.050, 70A.245.040, 70A.245.050,



1 70A.245.070, 70A.245.080, 70A.65.200, 70A.455.090, 88.46.090,  
2 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102  
3 and chapter 70A.355 RCW shall be imposed by a notice in writing,  
4 either by certified mail with return receipt requested or by personal  
5 service, to the person incurring the penalty from the department or  
6 the local air authority, describing the violation with reasonable  
7 particularity. For penalties issued by local air authorities, within  
8 (~~thirty~~) 30 days after the notice is received, the person incurring  
9 the penalty may apply in writing to the authority for the remission  
10 or mitigation of the penalty. Upon receipt of the application, the  
11 authority may remit or mitigate the penalty upon whatever terms the  
12 authority in its discretion deems proper. The authority may ascertain  
13 the facts regarding all such applications in such reasonable manner  
14 and under such rules as it may deem proper and shall remit or  
15 mitigate the penalty only upon a demonstration of extraordinary  
16 circumstances such as the presence of information or factors not  
17 considered in setting the original penalty.

18 (2) Any penalty imposed under this section may be appealed to the  
19 pollution control hearings board in accordance with this chapter if  
20 the appeal is filed with the hearings board and served on the  
21 department or authority (~~thirty~~) 30 days after the date of receipt  
22 by the person penalized of the notice imposing the penalty or  
23 (~~thirty~~) 30 days after the date of receipt of the notice of  
24 disposition by a local air authority of the application for relief  
25 from penalty.

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

27 (a) Thirty days after receipt of the notice imposing the penalty;

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

31 (c) Thirty days after receipt of the notice of decision of the  
32 hearings board if the penalty is appealed.

33 (4) If the amount of any penalty is not paid to the department  
34 within (~~thirty~~) 30 days after it becomes due and payable, the  
35 attorney general, upon request of the department, shall bring an  
36 action in the name of the state of Washington in the superior court  
37 of Thurston county, or of any county in which the violator does  
38 business, to recover the penalty. If the amount of the penalty is not  
39 paid to the authority within (~~thirty~~) 30 days after it becomes due  
40 and payable, the authority may bring an action to recover the penalty

1 in the superior court of the county of the authority's main office or  
2 of any county in which the violator does business. In these actions,  
3 the procedures and rules of evidence shall be the same as in an  
4 ordinary civil action.

5 (5) All penalties recovered shall be paid into the state treasury  
6 and credited to the general fund except those penalties imposed  
7 pursuant to RCW 18.104.155, which shall be credited to the  
8 reclamation account as provided in RCW 18.104.155(7), RCW  
9 70A.15.3160, the disposition of which shall be governed by that  
10 provision, RCW 70A.245.040 and 70A.245.050, which shall be credited  
11 to the recycling enhancement account created in RCW 70A.245.100, RCW  
12 70A.300.090, which shall be credited to the model toxics control  
13 operating account created in RCW 70A.305.180, RCW 70A.65.200, which  
14 shall be credited to the climate investment account created in RCW  
15 70A.65.250, RCW 90.56.330, which shall be credited to the coastal  
16 protection fund created by RCW 90.48.390, and RCW 70A.355.070, which  
17 shall be credited to the underground storage tank account created by  
18 RCW 70A.355.090.

19 **PART 9**  
20 **Miscellaneous**

21 NEW SECTION. **Sec. 901.** Sections 401, 402, and 405 of this act  
22 constitute a new chapter in Title 70A RCW.

23 NEW SECTION. **Sec. 902.** Nothing in this act changes or limits  
24 the authority of the Washington utilities and transportation  
25 commission to regulate the collection of solid waste, including  
26 curbside collection of residential recyclable materials, nor does  
27 this section change or limit the authority of a city or town to  
28 provide the service itself or by contract under RCW 81.77.020.

29 NEW SECTION. **Sec. 903.** The following acts or parts of acts are  
30 each repealed:

31 (1) RCW 70A.455.110 (Compostable products revolving account) and  
32 2020 c 20 s 1450 & 2019 c 265 s 11; and

33 (2) RCW 70A.455.900 (Effective date—2019 c 265) and 2019 c 265 s  
34 13.

1        NEW SECTION.    **Sec. 904.**    If any provision of this act or its  
2 application to any person or circumstance is held invalid, the  
3 remainder of the act or the application of the provision to other  
4 persons or circumstances is not affected.

5        NEW SECTION.    **Sec. 905.**    If specific funding for the purposes of  
6 this act, referencing this act by bill or chapter number, is not  
7 provided by June 30, 2022, in the omnibus appropriations act, this  
8 act is null and void.

Passed by the House March 8, 2022.

Passed by the Senate March 3, 2022.

Approved by the Governor March 25, 2022.

Filed in Office of Secretary of State March 28, 2022.

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**Chapter 43.19A RCW**  
**RECYCLED PRODUCT PROCUREMENT**

**Sections**

43.19A.005	Purpose.
43.19A.010	Definitions.
43.19A.020	Recycled product purchasing—Federal product standards.
43.19A.022	Recycled content paper for printers and copiers— Purchasing priority.
43.19A.030	Local government duties.
43.19A.040	Local government adoption of preferential purchase policy optional.
43.19A.050	Strategy for state agency procurement.
43.19A.060	Database of products and vendors.
43.19A.070	Education program—Product substitution list—Model procurement guidelines.
43.19A.080	Bid notification to state recycled content requirements.
43.19A.110	Local road projects—Compost products.
43.19A.120	Use of compost products in projects.
43.19A.130	Local governments encouraged to enter compost product purchasing agreements.
43.19A.140	Use of biochar in public works projects.
43.19A.150	Cities and counties required to adopt a compost procurement ordinance—Report.
43.19A.160	Use of compost products.

*Recycled material products purchase: RCW 39.26.255.*

**RCW 43.19A.005 Purpose.** It is the purpose of this chapter to:

(1) Substantially increase the procurement of recycled content products by all local and state governmental agencies and public schools, and provide a model to encourage a comparable commitment by Washington state citizens and businesses in their purchasing practices;

(2) Target government procurement policies and goals toward those recycled products for which there are significant market development needs or that may substantially contribute to solutions to the state's waste management problem;

(3) Provide standards for recycled products for use in procurement programs by all governmental agencies;

(4) Provide the authority for all governmental agencies to adopt preferential purchasing policies for recycled products;

(5) Direct state agencies to develop strategies to increase recycled product purchases, and to provide specific goals for procurement of recycled paper products and organic recovered materials; and

(6) Provide guidance and direction for local governments and other public agencies to develop plans for increasing the procurement of recycled content products. [1991 c 297 § 1.]

**RCW 43.19A.010 Definitions.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Biosolids" means municipal sewage sludge or septic tank septage sludge that meets the requirements of chapter 70A.226 RCW.

(2) "Compost products" means mulch, soil amendments, ground cover, or other landscaping material derived from the biological or mechanical conversion of biosolids or cellulose-containing waste materials.

(3) "Department" means the department of enterprise services.

(4) "Director" means the director of the department of enterprise services.

(5) "Local government" means a city, town, county, special purpose district, school district, or other municipal corporation.

(6) "Lubricating oil" means petroleum-based oils for reducing friction in engine parts and other mechanical parts.

(7) "Mixed waste paper" means assorted low-value grades of paper that have not been separated into individual grades of paper at the point of collection.

(8) "Municipal sewage sludge" means a semisolid substance consisting of settled sewage solids combined with varying amounts of water and dissolved materials generated from a publicly owned wastewater treatment plant.

(9) "Paper and paper products" means all items manufactured from paper or paperboard.

(10) "Postconsumer waste" means a material or product that has served its intended use and has been discarded for disposal or recovery by a final consumer.

(11) "Procurement officer" means the person that has the primary responsibility for procurement of materials or products.

(12) "Recycled content product" or "recycled product" means a product containing recycled materials.

(13) "Recycled materials" means waste materials and by-products that have been recovered or diverted from solid waste and that can be utilized in place of a raw or virgin material in manufacturing a product and consists of materials derived from postconsumer waste, manufacturing waste, industrial scrap, agricultural wastes, and other items, all of which can be used in the manufacture of new or recycled products.

(14) "Re-refined oils" means used lubricating oils from which the physical and chemical contaminants acquired through previous use have been removed through a refining process. Re-refining may include distillation, hydrotreating, or treatments employing acid, caustic, solvent, clay, or other chemicals, or other physical treatments other than those used in reclaiming.

(15) "State agency" means all units of state government, including divisions of the governor's office, the legislature, the judiciary, state agencies and departments, correctional institutions, vocational technical institutions, and universities and colleges.

(16) "USEPA product standards" means the product standards of the United States environmental protection agency for recycled content published in the Code of Federal Regulations. [2021 c 65 § 36. Prior: 2011 1st sp.s. c 43 § 250; 1992 c 174 § 12; 1991 c 297 § 2.]

**Explanatory statement—2021 c 65:** See note following RCW 53.54.030.

**Effective date—Purpose—2011 1st sp.s. c 43:** See notes following RCW 43.19.003.

**RCW 43.19A.020 Recycled product purchasing—Federal product standards.** (1) The federal product standards, adopted under 42 U.S.C. Sec. 6962(e) as it exists on July 1, 2001, are adopted as the minimum standards for the state of Washington. These standards shall be implemented for at least the products listed in this subsection, unless the director finds that a different standard would significantly increase recycled product availability or competition.

- (a) Organic recovered materials;
- (b) Latex paint products;
- (c) Products for lower value uses containing recycled plastics;
- (d) Retread and remanufactured tires;
- (e) Lubricating oils;
- (f) Automotive batteries;
- (g) Building products and materials;
- (h) Panelboard; and
- (i) Compost products.

(2) By July 1, 2001, the director shall adopt product standards for strawboard manufactured using as an ingredient straw that is produced as a by-product in the production of cereal grain or turf or grass seed and product standards for products made from strawboard.

(3) The standards required by this section shall be applied to recycled product purchasing by the department, other state agencies, and state postsecondary educational institutions. The standards may be adopted or applied by any other local government in product procurement. The standards shall provide for exceptions under appropriate circumstances to allow purchases of recycled products that do not meet the minimum content requirements of the standards. [2009 c 356 § 3; 2001 c 77 § 1; 1996 c 198 § 1; 1995 c 269 § 1406; 1991 c 297 § 3.]

**Effective date—2001 c 77:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2001." [2001 c 77 § 2.]

**Effective date—Part headings not law—Severability—1995 c 269:**  
See notes following RCW 18.16.050.

**RCW 43.19A.022 Recycled content paper for printers and copiers—Purchasing priority.** (1) All state agencies shall purchase one hundred percent recycled content white cut sheet bond paper used in office printers and copiers. State agencies are encouraged to give priority to purchasing from companies that produce paper in facilities that generate energy from a renewable energy source.

(2) State agencies that utilize office printers and copiers that, after reasonable attempts, cannot be calibrated to utilize such paper referenced in subsection (1) of this section, must for those models of equipment:

- (a) Purchase paper at the highest recycled content that can be utilized efficiently by the copier or printer;
- (b) At the time of lease renewal or at the end of the life cycle, either lease or purchase a model that will efficiently utilize one hundred percent recycled content white cut sheet bond paper.

(3) Printed projects that require the use of high volume production inserters or high-speed digital devices, such as those used

by the department of enterprise services, are not required to meet the one hundred percent recycled content white cut sheet bond paper standard, but must utilize the highest recycled content that can be utilized efficiently by such equipment and not impede the business of agencies.

(4) The department of enterprise services shall identify for use by agencies one hundred percent recycled paper products that process efficiently through high-speed production equipment and do not impede the business of agencies. [2015 c 225 § 71; 2011 1st sp.s. c 43 § 251; 2009 c 356 § 2.]

**Effective date—Purpose—2011 1st sp.s. c 43:** See notes following RCW 43.19.003.

**RCW 43.19A.030 Local government duties.** (1) By January 1, 1993, each local government shall review its existing procurement policies and specifications to determine whether recycled products are intentionally or unintentionally excluded. The policies and specifications shall be revised to include such products unless a recycled content product does not meet an established performance standard of the agency.

(2) By fiscal year 1994, each local government shall adopt a minimum purchasing goal for recycled content as a percentage of the total dollar value of supplies purchased. To assist in achieving this goal each local government shall adopt a strategy by January 1, 1993, and shall submit a description of the strategy to the department. All public agencies shall respond to requests for information from the department for the purpose of its reporting requirements under this section.

(3) Each local government shall designate a procurement officer who shall serve as the primary contact with the department for compliance with the requirements of this chapter.

(4) This section shall apply only to local governments with expenditures for supplies exceeding five hundred thousand dollars for fiscal year 1989. Expenditures for capital goods and for electricity, water, or gas for resale shall not be considered a supply expenditure. [1998 c 245 § 57; 1991 c 297 § 4.]

**RCW 43.19A.040 Local government adoption of preferential purchase policy optional.** (1) Each local government shall consider the adoption of policies, rules, or ordinances to provide for the preferential purchase of recycled content products. Any local government may adopt the preferential purchasing policy of the department of enterprise services, or portions of such policy, or another policy that provides a preference for recycled content products.

(2) The department of enterprise services shall prepare one or more model recycled content preferential purchase policies suitable for adoption by local governments. The model policy shall be widely distributed and provided through the technical assistance and workshops under RCW 43.19A.070.

(3) A local government that is not subject to the purchasing authority of the department of enterprise services, and that adopts the preferential purchase policy or rules of the department, shall not

be limited by the percentage price preference included in such policy or rules. [2015 c 225 § 72; 1991 c 297 § 6.]

**RCW 43.19A.050 Strategy for state agency procurement.** The department shall prepare a strategy to increase purchases of recycled-content products by the department and all state agencies, including higher education institutions. The strategy shall include purchases from public works contracts. The strategy shall address the purchase of plastic products, retread and remanufactured tires, motor vehicle lubricants, latex paint, and lead acid batteries having recycled content. In addition, the strategy shall incorporate actions to achieve the following purchase level goals of compost products:

Compost products as a percentage of the total dollar amount on an annual basis:

- (1) At least forty percent by 1996;
- (2) At least sixty percent by 1997;
- (3) At least eighty percent by 1998. [2009 c 356 § 4; 1996 c 198 § 2; 1991 c 297 § 7.]

**RCW 43.19A.060 Database of products and vendors.** (1) The department shall develop a database of available products with recycled-content products, and vendors supplying such products. The database shall incorporate information regarding product consistency with the content standards adopted under RCW 43.19A.020. The database shall incorporate information developed through state and local government procurement of recycled-content products.

(2) By December 1, 1992, the department shall report to the appropriate standing committees of the legislature on the cost of making the database accessible to all state and local governments and to the private sector.

(3) The department shall compile information on purchases made by the department or pursuant to the department's purchasing authority, and information provided by local governments, regarding:

(a) The percentage of recycled content and, if known, the amount of postconsumer waste in the products purchased;

(b) Price;

(c) Agency experience with the performance of recycled products and the supplier under the terms of the purchase; and

(d) Any other information deemed appropriate by the department. [1991 c 297 § 8.]

**RCW 43.19A.070 Education program—Product substitution list—Model procurement guidelines.** (1) The department shall implement an education program to encourage maximum procurement of recycled products by state and local government entities. The program shall include at least the following:

(a) Technical assistance to all state and local governments and their designated procurement officers on the requirements of this chapter, including preparation of model purchase contracts, the preparation of procurement plans, and the availability of recycled products;

(b) Two or more workshops annually in which all state and local government entities are invited;



(c) Information on intergovernmental agreements to facilitate procurement of recycled products.

(2) The director shall, in consultation with the department of ecology, make available to the public, local jurisdictions, and the private sector, a comprehensive list of substitutes for extremely hazardous, hazardous, toxic, and nonrecyclable products, and disposable products intended for a single use. The department and all state agencies exercising the purchasing authorities of the department shall include the substitute products on bid notifications, except where the department allows an exception based upon product availability, price, suitability for intended use, or similar reasons.

(3) The department shall prepare model procurement guidelines for use by local governments. [1991 c 297 § 9.]

**RCW 43.19A.080 Bid notification to state recycled content requirements.** A notification regarding a state or local government's intent to procure products with recycled content must be prominently displayed in the procurement solicitation or invitation to bid including:

(1) A description of the postconsumer waste content or recycled content requirements; and

(2) A description of the agency's recycled content preference program. [1991 c 297 § 11.]

**RCW 43.19A.110 Local road projects—Compost products.** (1) Each county and city required to prepare a strategy under RCW 43.19A.030 shall adopt specifications for compost products to be used in road projects. The specifications developed by the department of transportation under RCW 47.28.220 may be adopted by the city or county in lieu of developing specifications.

(2) After July 1, 1992, any contract awarded in whole or in part for applying soils, soil covers, or soil amendments to road rights-of-way shall specify that compost materials be purchased in accordance with the following schedule:

(a) For the period July 1, 1992, through June 30, 1994, at least twenty-five percent of the total dollar amount of purchases by the city or county;

(b) On and after July 1, 1994, at least fifty percent of the annual total dollar amount of purchases by the city or county.

(3) The city or county may depart from the schedule in subsection (2) of this section where it determines that no suitable product is available at a reasonable price. [1991 c 297 § 17.]

**RCW 43.19A.120 Use of compost products in projects.** (1) When planning government-funded projects or soliciting and reviewing bids for such projects, all state agencies and local governments shall consider whether compost products can be utilized in the project.

(2) If compost products can be utilized in the project, the state agency or local government must use compost products, except as follows:

(a) A state agency or local government is not required to use compost products if:

(i) Compost products are not available within a reasonable period of time;

(ii) Compost products that are available do not comply with existing purchasing standards;

(iii) Compost products that are available do not comply with federal or state health, quality, and safety standards; and

(iv) Compost purchase prices are not reasonable or competitive; and

(b) A state agency is also not required to use compost products in a project if:

(i) The total cost of using compost is financially prohibitive;

(ii) Application of compost will have detrimental impacts on the physical characteristics and nutrient condition of the soil as it is used for a specific crop;

(iii) The project consists of growing trees in a greenhouse setting, including seed orchard greenhouses; or

(iv) The compost products that are available have not been certified as being free of crop-specific pests and pathogens, including pests and pathogens that could result in the denial of phytosanitary permits for shipping seedlings.

(3) Before the transportation or application of compost products under this section, composting facilities, state agencies, and local governments must ensure compliance with department of agriculture pest control regulations provided in chapter 16-470 WAC.

(4) State agencies and local governments are encouraged to give priority to purchasing compost products from companies that produce compost products locally, are certified by a nationally recognized organization, and produce compost products that are derived from municipal solid waste compost programs and meet quality standards adopted by rule by the department of ecology. [2020 c 290 § 2.]

**Findings—Legislative declaration—2020 c 290:** "The legislature finds and declares that local compost manufacturing plays a critical role in our state's solid waste infrastructure. Composting benefits Washington agencies, counties, cities, businesses, and residents by diverting hundreds of thousands of tons of organic waste from landfills, reducing solid waste costs, and lowering carbon emissions. The legislature finds that a growing number of local governments are recognizing the benefits of composting programs and offering compost collection to their residents and businesses. The diversion of food waste from landfills to compost processors remains critical for state and local governments to meet their ambitious diversion goals.

The legislature also finds that composting is a strong carbon reduction industry for Washington, as the application of compost to soil systems permits increased carbon sequestration. Compost can also replace synthetic chemical fertilizer, prevent topsoil erosion, and filter stormwater on green infrastructure projects such as rain gardens and retention ponds.

The legislature declares that state and local governments should lead by example by purchasing and using local compost that meets state standards and by encouraging farming operations to do so as well." [2020 c 290 § 1.]

**RCW 43.19A.130 Local governments encouraged to enter compost product purchasing agreements.** (1) Each local government that

provides a residential composting service is encouraged to enter into a purchasing agreement with its compost processor to buy back finished compost products for use in government projects or on government land. The local government is encouraged to purchase an amount of finished compost product that is equal to or greater than fifty percent of the amount of organic residuals it delivered to the compost processor. Local governments may enter into collective purchasing agreements if doing so is more cost-effective or efficient. The compost processor should offer a purchase price that is reasonable and competitive for the specific market.

(2) When purchasing compost products for use in government projects or on government-owned land, local governments are encouraged to purchase compost with at least eight percent food waste, or an amount of food waste that is commensurate with that in the local jurisdiction's curbside collection program. [2020 c 290 § 3.]

**Findings—Legislative declaration—2020 c 290:** See note following RCW 43.19A.120.

**RCW 43.19A.140 Use of biochar in public works projects.** (1) When planning government-funded projects that are public works, or soliciting and reviewing bids for such projects, all state agencies and local governments shall consider whether biochar products can be utilized in the project.

(2) If biochar products can be utilized in the project, the state agency or local government must use biochar products, except as follows:

(a) A state agency or local government is not required to use biochar products if:

(i) Biochar products are not available within a reasonable period of time;

(ii) Biochar products that are available do not comply with existing purchasing standards;

(iii) Biochar products that are available do not comply with federal or state health, quality, and safety standards; or

(iv) Biochar purchase prices are not reasonable or competitive; and

(b) A state agency is not required to use biochar products in a project if:

(i) The total cost of using biochar is financially prohibitive;

(ii) Application of biochar will have detrimental impacts on the physical characteristics and nutrient condition of the soil as it is used for a specific crop; or

(iii) The project consists of growing trees in a greenhouse setting, including seed orchard greenhouses.

(3) For the purposes of this section, "biochar" means a carbon-rich material produced during the pyrolysis process or solid material obtained from the thermochemical conversion of biomass in an oxygen-limited environment, derived from biomass waste materials including forest, agricultural, yard, urban wood, food, and biosolid residuals. [2022 c 293 § 1.]

**RCW 43.19A.150 Cities and counties required to adopt a compost procurement ordinance—Report.** (1) By January 1, 2023, the following

cities or counties shall adopt a compost procurement ordinance to implement RCW 43.19A.120:

(a) Each city or county with a population greater than 25,000 residents as measured by the office of financial management using the most recent population data available; and

(b) Each city or county in which organic material collection services are provided under chapter 70A.205 RCW.

(2) A city or county that newly exceeds a population of 25,000 residents after January 1, 2023, as measured by the office of financial management, must adopt an ordinance under this subsection no later than 12 months after the office of financial management's determination that the local government's population has exceeded 25,000.

(3) In developing a compost procurement ordinance, each city and county shall plan for the use of compost in the following categories:

(a) Landscaping projects;

(b) Construction and postconstruction soil amendments;

(c) Applications to prevent erosion, filter stormwater runoff, promote vegetation growth, or improve the stability and longevity of roadways; and

(d) Low-impact development and green infrastructure to filter pollutants or keep water on-site, or both.

(4) Each city or county that adopts an ordinance under subsection (1) or (2) of this section must develop strategies to inform residents about the value of compost and how the jurisdiction uses compost in its operations in the jurisdiction's comprehensive solid waste management plan pursuant to RCW 70A.205.045.

(5) By December 31, 2024, and each December 31st of even-numbered years thereafter, each city or county that adopts an ordinance under subsection (1) or (2) of this section must submit a report covering the previous year's compost procurement activities to the department of ecology that contains the following information:

(a) The total tons of organic material diverted throughout the year;

(b) The volume and cost of compost purchased throughout the year; and

(c) The source or sources of the compost.

(6) Cities and counties that are required to adopt an ordinance under subsection (1) or (2) of this section shall give priority to purchasing compost products from companies that produce compost products locally, are certified by a nationally recognized organization, and produce compost products that are derived from municipal solid waste compost programs and meet quality standards comparable to standards adopted by the department of transportation or adopted by rule by the department of ecology.

(7) Cities and counties may enter into collective purchasing agreements if doing so is more cost-effective or efficient.

(8) Nothing in this section requires a compost processor to:

(a) Enter into a purchasing agreement with a city or county;

(b) Sell finished compost to meet this requirement; or

(c) Accept or process food waste or compostable products. [2022 c 180 § 701.]

**Findings—Intent—Scope of authority of chapter 180, Laws of 2022**  
**—2022 c 180:** See notes following RCW 70A.205.007.

**RCW 43.19A.160 Use of compost products.** A contract by a local government or state agency must require the use of compost products to the maximum extent economically feasible to meet the requirements established in RCW 43.19A.120. [2022 c 180 § 703.]

**Findings—Intent—Scope of authority of chapter 180, Laws of 2022**  
—**2022 c 180:** See notes following RCW 70A.205.007.