

# Statewide Lists

*RCW 70A.208.090(1)(a) The department must develop lists of covered materials determined to be recyclable or compostable statewide. (...) In the development of the lists, the department must distinguish between:*

- (i) Materials determined to be suitable for residential recycling collection, whether in a commingled or in a separate container;*
- (ii) Materials determined to be suitable for residential composting collection;*
- (iii) Materials suitable for public place collection; and*
- (iv) Materials suitable for alternative collection.*

# Statewide Lists

## Interpretation #1: Implied “covered”

- (i) **Covered** Materials determined to be suitable for residential recycling collection, whether in a commingled or in a separate container;
- (ii) **Covered** Materials determined to be suitable for residential composting collection;
- (iii) **Covered** Materials suitable for public place collection; and
- (iv) **Covered** Materials suitable for alternative collection.

### Implications:

- Statewide lists would not include commonly recycled items like newspaper
- Programs could collect these materials outside the EPR program (optional, no external funding)
- Ecology would produce list of materials recommended for collection

## Interpretation #2: Allow for all materials

“Covered” is not implied, all suitable materials can be included on lists (current candidate list)

### Implications:

- Concerns about legal scope: Ecology’s lists would potentially include exempt or noncovered materials
- Obligations under the law apply only to covered materials
  - Service providers would not be required to collect noncovered materials
  - The PRO would not be obligated to pay for noncovered materials
- Programs would have a choice, to collect or not to collect = same potential for disharmony

# To include or not to include...

## Working interpretation: Implied “covered”

*RCW 70A.208.090(1)(a) The department must develop lists of covered materials determined to be recyclable or compostable statewide. (...) the department must distinguish between:*

- (i) Materials determined to be suitable for residential recycling collection, whether in a commingled or in a separate container;*
- (ii) Materials determined to be suitable for residential composting collection;*
- (iii) Materials suitable for public place collection; and*
- (iv) Materials suitable for alternative collection.*

# Implications of working interpretation

Ecology's lists would not include exempt or noncovered materials

- Ex. Recycling collection list would not include newspaper or small scrap metal
- Ex. Composting collection list would not include yard debris

*RCW 70A.208.090(4)(a) (...) a material that is not identified as suitable for residential collection may not be collected as part of a residential recycling program.*

# Implications of interpretation

Ecology's lists would not include exempt or noncovered materials

- Ex. Recycling collection list would not include newspaper or small scrap metal
- Ex. Composting collection list would not include yard debris

*RCW 70A.208.090(4)(a) (...) a [covered] material that is not identified as suitable for residential collection may not be collected as part of a residential recycling program.*

- If “covered” is implied, this restriction applies only to covered materials. Programs could add noncovered and exempt materials. Costs for those materials not covered.

# To include or not to include...

## Interpretation #2: Allow for all materials

RCW 70A.208.090(1)(a) The department must develop lists of covered materials determined to be recyclable or compostable statewide. (...) the department must distinguish between:

- (i) Materials determined to be suitable for residential recycling collection, whether in a commingled or in a separate container;
- (ii) Materials determined to be suitable for residential composting collection;
- (iii) Materials suitable for public place collection; and
- (iv) Materials suitable for alternative collection.

# Implications of interpretation #2

## *Service Provider Responsibilities*

*RCW 70A.208.080 A service provider receiving reimbursement or funding under an approved plan must:*

- (1) Provide covered services for covered materials included on the statewide collection lists...*

## *Producer Responsibility Organization - Plan*

*RCW 70A.208.130(3) A draft plan must include at a minimum:*

- (l) Performance standards for service providers as applicable to the service provided including, but not limited to:*

- (i) Requirements that service providers must accept all covered materials on the applicable list established by the department under RCW 70A.208.090(1)(a);*

## *Service Provider Reimbursement*

*RCW 70A.208.170(2)(a) A plan must provide a methodology for reimbursement rates for covered services for covered materials, exclusive of exempt materials.*

# Implications of interpretation #2

- Ecology's lists would potentially include exempt or noncovered materials
- Service providers would not be required to collect noncovered materials
- The PRO would not be obligated to pay for noncovered materials
- Programs would have a choice – to collect or not to collect
- Same potential for disharmony