

Removing Regulatory Barriers to Recycling

- Ecology Adopted the Beyond Waste Plan in November, 2004.
- The Plan establishes a 30 year goal for achieving zero waste
- The plan identifies several key waste streams and activities to focus on, among these increased recycling and product stewardship.
- The plan identifies obsolete and outdated laws as key barriers to effective recycling and product stewardship.

Background

- RCW 70.95 originally passed in 1969.
- The environmental concern at the time was open burning dumps.
- The majority of waste disposed in these dumps was “rubbish” from households.
- The focus of the original legislation was closure of open burning dumps and construction of new “sanitary landfills” to control air pollution while reducing vermin thereby protecting human health and the environment.
- Most counties owned and operated a local landfill.
- Today most local landfills are closed with 98% of the state’s trash being shipped to regional landfills in Eastern Washington and Oregon.
- Over the years, the composition of the waste stream has changed as the materials in products changed.
- A waste stream that was once organic in nature is now largely products and packaging made of a variety of materials, some containing toxic substances.
- The Legislature responded to the changing waste environment, by amending RCW 70.95 more than 28 times. In addition, many stand-alone pieces of legislation were passed to allow for increased recycling efforts including the Waste Not Washington Act, the labeling of plastics, used oil recycling, mercury, and many more with the most recent being the electronic recycling, children’s safe products and lead wheel weights laws.
- There are at least 89 laws on the books related to solid waste or recycling.
- Although responsive, these laws distribute responsibility and authority for solid waste management to many levels of government using a variety of regulatory approaches which creates inefficiencies in implementation. It also creates inconsistent levels of effort to achieve waste reduction and recycling goals.

Policy Issues

1. Ecology believes these 40 years of changes, not only to the waste stream but to the management of that waste, calls for a modernized regulatory structure, one that allows for the movement and reuse of materials while providing infrastructure for disposal of residuals.
2. Solid Waste management is delegated to local governments. The State’s role is to set regulatory environmental performance standards for solid waste facilities. In many counties, the permit is issued to the local public works department and signed by the Board of Commissioners. Enforcement of the permit and solid waste regulations is delegated to local governments’ health

department that also reports to the same Board of Commissioner. This creates a conflict between management and enforcement at the local government level.

3. Regulatory authority over solid waste is dependent on local comprehensive solid waste plans. These plans are written and implemented by individual county governments. This leads to disparity in programs, funding, and regulatory oversight depending on the resources of the individual counties.
4. Current definitions of solid waste and the regulatory structure do not provide cost effective or efficient avenues for the recycling or reuse of materials that are defined as solid waste but may have other more beneficial uses.
5. Solid waste financing is dependent on the generation of waste. There are many taxes, local and state, associated with waste disposal. If waste generation goes down, revenue goes down. This creates a disincentive to recycle or reuse materials.
6. There is limited infrastructure for recycling facilities in the state, especially in eastern Washington.
7. There is little or no regulatory authority over material recovery facilities, and permits vary from one local jurisdiction to another.
8. There is not an emphasis on developing and sustaining local industries that would use recycled materials here in Washington State. Rather, most recovered materials are sent off-shore for recycling.

Potential Solutions may include:

1. Amend RCW 70.95 to create a stand-alone law for regulation of solid waste management only – collection, transportation and disposal of wastes;
2. Create a new law for recycling of materials, not wastes, focusing on collection, transportation, processing and use;
3. Reorganize the product specific laws to create a product policy law or group of laws, that creates consistent treatment of products and incorporates product stewardship principles; and
4. Address the financing issues as unique parts of each of the three above including amending the tax and finance structure for solid waste to create incentives for recycling and product stewardship.

State Laws Related to “Solid Waste”

	RCW	TITLE	Brief Description
1	7.48	Nuisances	
2	15.54	Fertilizer	
3	16.36	Animal health (formerly diseases — quarantine — garbage feeding)	
4	19.27	State Building Code	.470 and .480
5	19.29A	Consumers of Electricity	.010 Definitions .090 Voluntary option to purchase qualified alternative energy resources — Rates, terms, and conditions — Reports.
6	19.285	Utilities and Transportation Commission	
7	35.02	Incorporation Proceedings	
8			
9	35.13	Annexation of Unincorporated Areas	.280 Cancellation, acquisition of franchise or permit for operation of public service business in territory annexed — Regulation of solid waste collection
10	35.21	Cities – Miscellaneous Provisions	.120 Solid waste handling system -- Contracts .130 Solid waste or recyclable materials collection - Ordinance .135 Solid waste or recyclable materials collection -- Curbside recycling -- Reduced rate .140 Garbage -- Notice of lien -- Foreclosure .150 Garbage -- Lien -- Priority .152 Solid waste handling -- Agreements -- Purposes -- Terms and conditions .154 Solid waste -- Compliance with chapter 70.95 RCW required .156 Solid waste -- Contracts with vendors for solid waste handling systems, plants, sites, or facilities -- Requirements -- Vendor selection procedures. .157 Solid waste collection -- Rate increase notice .158 Collection and transportation of recyclable materials by recycling companies or nonprofit entities -- Reuse or reclamation -- Application of chapter
11	35.22	First Class Cities	
12	35.23	Second Class Cities	
13	35.92	Municipal Utilities	.020 Authority to acquire and operate sewerage and solid waste handling systems, plants, sites, or facilities -- Classification of services and facilities for rates -- Assistance for low-income persons

			.023 Compliance with 780.95 required 430 Environmental mitigation activities
14	35.97	Heating Systems	.010 Definitions (biomass)
15	35A.14	Annexation by code cities	35A.14.900 Cancellation, acquisition of franchise or permit for operation of public service business in territory annexed — Regulation of solid waste collection.
16	35A.21	Provisions affecting all code cities	.060 Garbage ordinance -- Lien -- Foreclosure. .150 Sewerage and refuse collection and disposal systems. .152 Solid waste collection -- Rate increase notice. .153 Solid waste collection curbside recycling -- Reduced rate. .155 Collection and transportation of recyclable materials by recycling companies or nonprofit entities — Reuse or reclamation — Application of chapter
17	36.32	County commissioners	.265 Competitive bids -- Inapplicability to certain agreements relating to water pollution control, solid waste handling facilities Notes: Solid waste collection districts: Chapter 36.58ARCW
18	36.36	Aquifer protection areas	
19	36.58	Counties - Solid Waste Disposal	
20	36.58A	Solid waste collection districts	
21	36.70A	Growth management — planning by selected counties and cities	.200 Siting of essential public facilities — Limitation on liability
22	36.96	Dissolution of inactive special purpose districts	(Includes dissolution of solid waste collection districts)
23	39.04	Public Works	.175 Application of chapter to certain agreements relating to water pollution control, solid waste handling facilities
24	39.35A	Performance-based contracts for water conservation, solid waste reduction, and energy equipment	
25	39.35C	Energy conservation projects	.010 definitions for “conservation” and “energy audit”
26	39.84	Industrial development revenue bonds	.020 Definitions includes solid waste disposal facilities in the definition of (6) “industrial development facilities” .080 Public corporations — Powers
27	43.19A	Recycled product	Substantially increase the procurement of recycled

		procurement	content products by all local and state governmental agencies and public schools
28	43.20	State board of health	
29	43.21A	Department of Ecology	.520 Environmental excellence awards program for products .680 Solid waste plan advisory committee abolished
30	43.21B	Environmental hearings office - Pollution control hearings board	
31	43.21C	State environmental policy	Solid waste is not mentioned. Establishes a state responsibility to assure recycling of depletable resources.
32	43.21F	State Energy Office	.025 definition of "energy" includes organic waste products used to produce heat, light, or motion
33	43.52	Operating Agencies	.567 Contracts for materials or work through competitive negotiation — Renewable electrical energy generation projects.
34	43.83A	Waste disposal facilities bond issue	Referendum 26 bond issue
35	43.99F	Waste disposal facilities -- 1980 bond issue (Referendum 39).	Referendum 39 bond issue
36	43.155	Public Works Board	Funding of public works projects including solid waste facilities Must be consistent with the local solid waste management plan
37	43.160	Economic Development – Public Loans and Grants	.010 (3), (4) and (5); .060 (1) (a)
38	43.163	Washington Economic Development and Finance Authority	.010 (11)
39	43.220	Washington Conservation Corps	.090 established within the Department of Ecology
40	46.44	Size, Weight, Load	.034 related to garbage collection trucks
41	46.61	Rules of the Road	.560 related to stopping and standing on roadways for solid waste collection trucks
42	64.70	Uniform Environmental Covenants Act	Relates to remedial actions, including "solid waste management units"
43	70.05	Local health department boards - Officers regulations	On-site Sewage
44	70.76	Polybrominated diphenyl ethers — flame retardants	
45	70.93	Waste reduction, recycling and model litter control act	

46	70.94	Washington clean air act	.743 Related to outdoor burning
47	70.95	Solid waste management - reduction and recycling	
48	70.95A	Pollution control - Municipal bonding	Allows municipalities to issue revenue bonds for pollution control facilities
49	70.95C	Waste reduction	Office of Waste Reduction established
50	70.95D	Solid Waste Incinerator and Landfill Operators	
51	70.95E	Hazardous Waste Fees	Fees collected to implement 70.95C.200 and .040
52	70.95F	Labeling of Plastics	Requires that plastic bottles carry a number indicating the type of resin it is made of and the recycling symbol. It does not require recycling.
53	70.95G	Packages Containing Metals	Prohibits use of toxic heavy metals in packaging
54	70.95H	Clean Washington Center	
55	70.95I	Used Oil Recycling	
56	70.95J	Municipal Sewage Sludge - Biosolids	
57	70.95K	Biomedical Waste	
58	70.95L	Detergent phosphorus content	
59	70.95M	Mercury	
60	70.95N	Electronic Product Recycling	
61	70.100	Derelict Vessels	
62	70.108	Outdoor Music Festivals	.040 (8) (g)
63	70.102	Hazardous Substance Information	
64	70.103	Lead Based Paint	
65	70.104	Pesticides – Health Hazards	
66	70.105	Hazardous Waste Management	
67	70.105A	Hazardous Waste Fees	Intended to provide a hazardous waste reduction and recycling incentive. 1989.
68	70.105D	Hazardous Waste Cleanup – Toxics Control Act	
69	70.118	On-site Sewage Disposal Systems	
70	70.118A	On-site sewage disposal systems — marine recovery areas	
71	70.132	Beverage Containers	Bans the use of detachable pull rings or tabs on beverage containers.

72	70.138	Incinerator Ash Residue	
73	70.240	Children's Safe Products	
74	72.09	Department of Corrections	.260 Litter Cleanup Program– Allows Corrections to establish a Community Restitution Program allowing offenders to work on crews to assist local units of government in litter cleanup.
75	76.42	Wood Debris – Removal from Navigable Waters	
76	78.44	Surface Mining	.141 (4)(h)(i) Related to reclamation of mining sites allowing utilization of solid wastes only with written approval from all appropriate solid waste regulatory agencies
77	80.01	Utilities and Transportation Commission	
78	81.04	Regulations (UTC)	Prescribes the UTC regulatory process.
79	81.16	Affiliated Interests	.075 Does not apply to rate making prescribed in 81.77
80	81.77	Solid Waste Collection Companies	Garbage collection certificate
81	81.80	Motor freight carriers	.470 Recyclable materials collection and transportation
82	82.04	Business and Occupations Tax	.290 (2)
83	82.06	Retail Sales Tax	RCW 82.08.0282 “...shall not apply to sales of returnable containers for beverages and foods, including but not limited to soft drinks, milk, beer, and mixers.
84	82.16	Public Utility Tax	
85	82.18	Solid Waste Collection Tax	.010
86	82.34	Pollution control facilities — tax exemptions and credits	
87	84.52	Levy of taxes	.052 and .750
88	90.44	Regulation of public groundwaters	.410 (1)(f) Requirements for groundwater management programs — Review of programs.
89	90.48	Water pollution control	.080 Discharge of polluting matter in waters prohibited