RCW 49.46.380 Material recovery facility—Minimum industry standard compensation—Investigation—Rule making. (1) Employers associated with a material recovery facility that annually manages 25,000 tons or more of covered materials under chapter 70A.208 RCW must ensure that workers at the facility receive minimum industry standard compensation, beginning October 1, 2028.

(2) Employers are not required to establish "usual benefit" programs. However, if an employer chooses not to provide such benefits, wages paid must be at the full minimum industry standard rate.

(3)(a) If more than one collective bargaining agreement exists that covers similar or equivalent work in the same county, the higher rate applies.

(b) If no collective bargaining agreement exists that covers similar or equivalent work in the same county, the rate in the county with a collective bargaining agreement that is closest geographically applies.

(4) The minimum industry standard compensation requirements of this section constitute a wage payment requirement as defined in RCW 49.48.082. The department of labor and industries may otherwise enforce this provision as a wage under RCW 49.48.040 through 49.48.080 and the applicable provisions of chapter 49.52 RCW.

(5)(a) The director may initiate an investigation without an employee's complaint to ensure compliance with this section. The department of labor and industries may also initiate an investigation on behalf of one or more employees when the director has reason to believe that a violation has occurred or will occur.

(b) The department of labor and industries may conduct a consolidated investigation for any alleged violation identified under this section, or associated rules, when there are common questions of law or fact. If the department of labor and industries consolidates such matters into a single investigation, the department of labor and industries must provide notice to the employer.

(c) The department of labor and industries may request that an employer perform a self-audit of any records relating to this section, which must be provided within a reasonable time. Reasonable timelines will be specified in the self-audit request. The department of labor and industries must determine reasonable time based on the number of affected employees and the period of time covered by the self-audit. The records examined by the employer in order to perform the self-audit must be made available to the department of labor and industries upon request.

(d) Upon request of the department of labor and industries, an employer must notify affected employees in writing that the department is conducting an investigation. The department of labor and industries may require the employer to include a general description of each investigation as part of the notification, including the allegations and whether the notified employee may be affected. The employer may consult with the department of labor and industries to provide the information for the description of the notification of investigation.

(e) Upon receiving a complaint, the department of labor and industries may request or subpoena the records of the material recovery facility.

(f) In addition to any enforcement authority provided in this section or applicable rules, the department of labor and industries may enforce any violation under this section or applicable rules by

filing an action in the superior court for the county in which the violation is alleged to have occurred. If the department of labor and industries prevails, the department is entitled to reasonable attorneys' fees and costs, in the amount to be determined by the court.

(6) The department of labor and industries may adopt rules to implement this section.

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

(a) "Minimum industry standard compensation" means a wage and usual benefits package equal to or greater than the combined hourly wage and usual benefits package set by a collective bargaining agreement that covers similar or equivalent work in a county.

(b) "Rate of contribution" means the effective annual rate of usual benefit contributions for all hours, public and private, worked during the year by an employee (commonly referred to as "annualization" of benefits). The only exemption to the annualization requirements is for defined contribution pension plans that have immediate participation and vesting.

(c)(i) "Usual benefits" includes the amount of:

(A) The rate of contribution irrevocably made by an employer to a trustee or to a third person pursuant to a fund, plan, or program; and

(B) The rate of costs to the employer, which may be reasonably anticipated in providing benefits to workers pursuant to an enforceable commitment to carry out a financially responsible plan or program that was communicated in writing to the workers affected, for medical or hospital care, pensions on retirement or death, compensation for all injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing, for unemployment benefits, life insurance, disability and sickness insurance, or accident insurance, for vacation and holiday pay, for defraying costs of apprenticeship or other similar programs, or for other bona fide fringe benefits, but only where the employer is not required by other federal, state, or local law to provide any of these benefits.

(ii) To be deemed a "usual benefit," both of the following requirements must be satisfied:

(A) Employer payments for the usual benefit are made only in conformance with all applicable federal and state laws, including the requirements of the employment retirement income security act of 1974, as amended, and of the internal revenue service; and

(B) Employee payments toward the usual benefit, through self-contribution, payroll deduction, or otherwise, do not constitute a credit to the employer for minimum industry standard compensation purposes. [2025 c 316 s 304.]