

Rulemaking Chapter 173-350 WAC – Organics Management

Comments

Cedar Grove Composting, Inc.

3/20/25

Topic	Comment	Support/Citations
Contamination Threshold Limits	Preventing contamination starts at the generator level. With few exceptions for heavily packaged items, proposed rules must require that generators still be responsible for source-separating all non-organic materials from organic materials at the point of generation. This is especially important for organic wastes generated by businesses that arrange for organic materials management services as required by RCW 70A.205.545.	RCW 70A.205.545 (businesses generating certain quantities of organic waste that is managed by organic materials management service must source separate organic material waste from other waste).
Contamination Threshold Limits	The default permitted allowance for inbound contamination at state compost facilities is 5%. This is a proven way to limit inbound contamination and also contamination in finished products. Proposed rules providing a higher allowance at other organic materials management facilities will jeopardize decades of work limiting contamination before it arrives at facilities.	WAC 173-350-220(6)(f)(iii)(C) (compost facilities must have plan for rejecting feedstocks contaminated with greater than five percent physical contaminants by volume).
Contamination Threshold Limits	The default permitted allowance for inbound contamination at state compost facilities is 5%. What data/evidence/studies will be relied upon to adjust the inbound contamination standard one way or another? This would be helpful to understand in order to further comment or supplement.	See above.
Contamination Threshold Limits	Any adjustments to inbound contamination limits at compost facilities need to be equally applicable to all organics management facilities which is the only way to maintain a level playing field for different businesses that handle organic wastes. In addition, since responsibility for source separation falls on the generator – not the organic materials management facility – Ecology’s rules should not set different inbound contamination limits for different types of recycling facilities.	

<p>Contamination Threshold Limits</p>	<p>Inbound loads containing mixed waste composed of some items destined for disposal, other items destined for some beneficial use, and still other items identified by a county solid waste management plan as “recyclable materials” should be characterized as municipal solid waste or mixed waste. MSW is, by definition, <u>unsegregated</u> solid waste. The definition clarifies that “solid waste that has been <u>segregated by source and characteristic</u>” may qualify for management as non-MSW. There will be significant confusion and increased contamination without proper classification. Proposed rules and permit conditions should treat these materials as MSW and ensure management of MSW meets state performance standards at all state organics management facilities.</p>	<p>WAC 173-350-100 (defining “municipal solid waste” as a “subset of solid waste which includes unsegregated garbage, refuse and similar solid waste material discarded from residential, commercial, institutional and industrial sources and community activities, including residue after recyclables have been separated. Solid waste that has been segregated by source and characteristic may qualify for management as a non-MSW solid waste, at a facility designed and operated to address the waste's characteristics and potential environmental impacts”).</p>
<p>Contamination Threshold Limits</p>	<p>Non-organic packaging in a food waste stream is a contaminant. If Ecology chooses to propose rules allowing the acceptance at organics management facilities of food items inside non-organic packaging, it is important that those items are required to be delivered and kept separate from source separated organics. Allowing non-organic packaged foods to be delivered with commingled food waste will jeopardize source separated programs by causing confusion at the generator level and lead to much more contamination at other facilities. As Ecology has stated, “Without reducing recycling contamination, it will not be possible to realize the full environmental, social, and economic benefits of recycling.”</p>	<p>Washington State Recycling Contamination Reduction and Outreach Plan (CROP) (September 2020) at 7.</p>

Contamination Threshold Limits	Regarding per load contamination, Cedar Grove supports the current regulatory approach as measured by volume upon visual inspection. Trained staff remain capable of making this determination along with standard regulatory oversight of contamination of inbound feedstocks. We are not aware of any citations for composters accepting heavily contaminated feedstocks.	WAC 173-350-220(6)(f)(iii)(C).
Contamination Threshold Limits	Additional monitoring or sort characterizations for inbound materials at composting facilities will create serious operational and safety issues during busy times of day or seasons. Finished compost must meet strict standards for inerts and facilities should be relied upon to deploy their chosen operational and equipment approach to meet these standards.	
Contamination Threshold Limits – Finished Compost Products	Current finished compost standards of less than or equal to 1% by weight and not to exceed 0.25% by weight film plastics are effective and working. Compost sales continue to increase year-over-year. Finished products complaints are low and isolated. News or complaints tend to garner the attention when hundreds of thousands of CY are sold each year to satisfied customers. The current standards should not be changed without a clear rationale and supporting data.	WAC 173-350-220, Table 220-B.
Slaughter Waste	The acceptance of slaughter waste should be left to market forces in terms of generators and processors. Proposed rules should not force organics management facilities, like a compost facility, to accept certain materials.	
Slaughter Waste	More information would be helpful on this topic to understand how the solid waste handling regulations intersect with this feedstock and/or further explanation of the regulatory obstacles.	
Pre-Processing Operations	While depackagers in certain circumstances may be able to increase the amount of some organic waste that is recycled, they need to be held to the same or similar standards that apply to other facilities that process organics. This is a matter of fairness and state law requirements for source-separation.	RCW 70A.205.545(3)(a) (requiring certain businesses to source separate organic wastes from other wastes before collection by an organic material management service, without regard to the type of recycling facility that will ultimately handle the wastes).

Pre-Processing Operations	Source separation has been a cornerstone of Washington’s solid waste management scheme for decades. The Legislature has stated that source separation is a “fundamental strategy” of solid waste management, and that solid waste collection and handling strategies should have “as an ultimate goal” the source separation of all materials with resource value or environmental hazard. In addition, the Legislature identified “Recycling, with source separation of recyclable materials as the preferred method” as the second highest priority for management of solid waste. Ecology has taken steps to incorporate this legislative priority into the Solid Waste Handling regulations. For example, Ecology allows composting facilities to accept only “feedstock,” which it defines as “a source separated waste material used as a component of composting, manufacturing, or as part of an industrial process.” Proposed rules should be consistent with current state laws, and recyclers handling organic waste should be held to the same source separation requirement.	RCW 70A.205.005(5) and (8)(b); WAC 173-350-010(3) (one purpose of Solid Waste Handling Standards is to follow the priorities for the management of solid waste as set by the legislature); WAC 173-350-220(6)(a)(v); and WAC 173-350-100.
Pre-Processing Operations	By definition, source separation must occur at the point of generation – in other words, where the solid waste is created. Separating solid wastes at the point of generation minimizes contamination, and therefore promotes recycling while limiting the amount of waste that is sent to a landfill. Proposed rules related to depackaging should not contradict this definition by allowing facilities to accept feedstocks that have not been source separated.	RCW 70A.205.015(26) and WAC 173-350-100 (“Source separation” means the separation of different kinds of solid waste at the place where the waste originates).
Pre-Processing Operations	It is our understanding that the current and proposed solid waste handling regulations subject to this rulemaking cover accepted feedstocks at organic management facilities. Can this be confirmed?	
Pre-Processing Operations	State statute already defines “organic material”. “Organic materials” mean “any solid waste that is a biological substance of plant or animal origin capable of microbial degradation.” It includes, but is not limited to, manure, yard debris, food waste, food processing waste, wood waste, and garden waste – all biological substances of plant or animal origin that can be degraded by microbes. Ecology has adopted these definitions verbatim in Chapter 173-350 WAC, Washington’s Solid Waste Handling Standards. Under this definition, organic material cannot include plastic packaging. Can this be confirmed?	RCW 70A.205.015 (16); WAC 173-350-100

<p>Pre-Processing Operations</p>	<p>Solid wastes are not considered “source separated” if they include both recyclable and non-recyclable materials. As the Washington Court of Appeals concluded in a case involving a materials recovery facility that accepted mixed demolition and construction debris:</p> <p>[The] mixed demolition and construction waste was composed of some items destined for disposal, other items destined for some beneficial use, and still other items identified by the county [solid waste management] plan as “recyclable materials.” Looking at the statute as a whole, it does not make sense that this jumble of wastes would be considered source separated for the purposes of recycling.</p> <p>Organic wastes therefore must be separated from inorganic wastes at the point of generation to be considered “source separated.” Rules related to depackaging should comply with state case law regarding source separation. With few exceptions for heavily packaged items, proposed rules must require that generators are still responsible for source-separating all non-organic materials from food residuals at the point of generation.</p>	<p><i>Skagit County v. Waldal</i>, 163 Wn. App. 284, 289, 2011 Wash. App. LEXIS 2004 (2004) (unpublished in part).</p>
<p>Pre-Processing Operations</p>	<p>According to current state definitions, “[o]rganic materials” means any solid waste that is a biological substance of plant or animal origin capable of microbial degradation. Organic materials include, but are not limited to, manure, yard debris, food waste, food processing wastes, wood waste, and garden wastes.</p> <p>Packaged food that includes inorganic, non-biological substances that are not capable of microbial degradation does not fit this definition. Therefore, the interpretation that food packaged in non-organic material is considered source separated organics does not appear consistent with this definition and needs to be reconsidered. Proposed rules or regulations cannot contradict state statutes.</p>	<p>WAC 173-350-100</p>
<p>Pre-Processing Operations</p>	<p>The Legislature underscored the requirement for source separation by the generator when it adopted HB 1799 in 2022. With certain exceptions, that bill requires businesses generating specified quantities of organic material waste to arrange for organic materials management services. Some businesses may comply with the law by managing their organic material waste on-site or self-hauling the waste, by qualifying for an exclusion, or by selling or donating organic materials to another business. All other businesses subject to the requirement, however, must comply by “[s]ource separating organic material waste from other waste” and then engaging an</p>	<p>RCW 70A.205.545(3)(a)</p>

	<p>organic material waste collection and management service to handle the organic waste. The quoted language from the statute makes clear that organic material waste must be separated from other wastes, including any non-organic packaging in which the organic wastes are enclosed. Proposed rules cannot be inconsistent with the source separation requirement at the generator level.</p>	
Pre-Processing Operations	<p>Depackaging operations can create, as a byproduct, large volumes of organic residuals. The Legislature does not want recyclable materials such as organic wastes to be landfilled. For example, it has prohibited transporters from delivering to landfills for disposal any recyclable materials which would include organics. Proposed rules should include a 90% recovery rate of all inbound tonnage which should include organic residuals. This is a reasonable rate, and one that is necessary to prevent sham recycling. Proposed rules should ensure that organic residuals and recyclable materials are not being landfilled.</p>	RCW 70A.205.310(1).
Pre-Processing Operations	<p>Pre-Processing operations rely on a separate operation or facility to actually process the feedstocks into compost or biogas. What happens when the processing facility goes down due to upset or maintenance? Proposed rules should require pre-processing facilities to have documented back-up agreements in place with permitted facilities with available capacity.</p>	
Pre-Processing Operations	<p>Some pre-processing operations, including depackaging, are designed to accept mixed materials likely requiring inbound hauling by state certificated or municipal-contracted haulers. That is because the mixed materials are not source separated, and therefore are defined as municipal solid waste. Municipal solid waste must be hauled by license solid waste collection companies. Proposed regulations should put in standards to ensure compliance and oversight to the laws governing solid waste hauling in the state.</p>	<p>WAC 173-350-100 (defining “municipal solid waste” as a “subset of solid waste which includes unsegregated garbage, refuse and similar solid waste material discarded from residential, commercial, institutional and industrial sources and community activities, including residue after recyclables have been separated; RCW 81.77.020 (requiring anyone engaged</p>

		in the business of solid waste collection to comply with the requirements of RCW 81.77, including obtaining a certificate of convenience and necessity.
Pre-Processing Operations	<p>A vast majority (if not potentially all) of Solid Waste Collection Contracts in King County include the following binding provision:</p> <p>4.1.11 Requirement to Recycle and Compost and Quality Assurance</p> <p>The Contractor shall use processing facilities to recycle or compost all Source-separated Recyclables and Compostables collected under this Contract (other than residue), unless express prior written permission is provided by the City. The Contractor shall use processing facilities that:</p> <ol style="list-style-type: none"> 1. Process materials to a high standard to maximize the recovery and recycling of all incoming Recyclable and Compostable materials; 2. Are operated to minimize cross-contamination of materials that would result in otherwise Recyclable materials being misdirected to a market or disposal where they would not be recovered; 3. Are designed and operated to minimize the stream of otherwise recoverable materials destined for disposal. 4. Have sufficient preprocess and screening staff and equipment to ensure that otherwise recoverable materials are not cross-contaminated and rendered non-recyclable due to the nature of the processing facility. <p>Proposed rules should be consistent with these legal standards.</p>	City of Tukwila, Comprehensive Garbage, Recyclables, and Compostables Collection Services Contract
Pre-Processing Operations	Pre-processing facilities should be required to meet a quarterly recovery rate of 90%. This ensures the facility is only accepting the correct materials and recycling to a reasonable standard. The basic calculation being: total inbound feedstocks minus materials removed for recycling and materials sent for disposal.	
Pre-Processing Operations	According to their manufacturers, depackaging machines are capable of handling paper, plastic, cardboard, aluminum or metal packaging fractions and can be separated, cleaned and made	

	recycle-ready to create additional value. Proposed rules should require back-end cleaning to ensure adequate recovery.	
Recordkeeping and Reporting	All permitted organics management facilities should be required to provide monthly reports to the JHD by waste type as identified and defined on the Ecology Composting Facility Annual Report. Seattle King County Public Health currently uses a monthly report that captures the inbound tonnage by class.	
Recordkeeping and Reporting	Reports from organics management facilities must include the total amount of material received (from all sources) by weight, the total amount of material disposed of at a landfill, and the total amount of material converted into a recycled product. Consistent and transparent reporting on the basic metrics are critical in assessing efficacy and for meeting state recycling goals.	
Recordkeeping and Reporting	How to classify consolidated mixed waste organics loads should be addressed as part of the rulemaking. For example, a walking floor trailer arrives at the facility with 90% yard debris/food waste and 10% wood waste. Cedar Grove always understood that it must classify this material in the more stringent class and you could not separate out the wood waste because of the risk of biological contamination. Clarification on this issue would be appreciated and could be handled via definition revision as well.	
Recordkeeping and Reporting	There is currently no express regulation allowing for deducting certain materials that are scavenged or removed out of mixed waste inbound feedstocks tipped at a facility. Accounting deductions are not understood, consistently applied, or regulated within and across jurisdictions. Accounting deductions are vulnerable to abuse and result in inaccurate state level reports on diversion. Organics management facilities are capable of working with their customers to ensure source separated materials (such as wood waste) are delivered to the facility separately and accounting deductions for scavenged materials should be prohibited for these reasons.	
Recordkeeping and Reporting	Organics management facilities should not be able to reclassify inbound loads as a different material class than reported by the customer. Proposed rules could consider regulatory changes that require compelling evidence (e.g., photographs, scale reports etc) be maintained by the facility and oversight including permit conditions. Reclassification of yard debris into wood waste upon visual inspection should be prohibited. Proposed rules should formally prohibit this practice.	

Recordkeeping and Reporting	Monthly and annual reports should include basic information on the jurisdiction of origin due to city/county flow control requirements.	
Training at Facilities	Cedar Grove supports ongoing training at organics management facilities for high-level managers. Tracking training and educational hours should be kept simple and documented by the facility for review by the JHD. There are many avenues and opportunities for training and education outside of CFOT training including Ecology presentations, WORC meetings/webinars, USCC presentations/webinars, and WSRA educational opportunities. JHD can evaluate and increase training requirements if facility issues are identified.	
Permit Exemptions	Cedar Grove is requesting more information, explanation, and examples of permit exempt facilities. In our experience, yard debris drop off locations require a permit exemption. Can Ecology provide any additional information on state law exemptions and Ecology exemptions?	
Permit Exemptions	As a yard debris drop-off location operator, we suggest a 72-hour limit to ensure materials move regularly.	
Permit Exemptions	Yard debris drop-off locations should be required to have cover, impervious surfaces and leachate control.	
Permit Exemptions	Yard debris drop-off facilities should have volume limits set based on the size of the cover/building and expected material flows.	
Permit Exemptions	Yard debris drop-off locations and wood waste recycling facilities (whether permitted or permit-exempt) should be subject to frequent inspection and enforcement. Inspections should include review and signage of accepted materials. Signs should also be required for materials not accepted. In our experience, we have seen many wood waste recycling facilities accepting yard debris.	
Other (digestate)	It is our understanding that solid digestate from a food waste anerobic digester is still considered a solid waste under state regulations. Solid digestate should meet the same standards as compost or biosolids, if it is land applied.	

