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See WRRRA comments in attached pdf. WRRRA plans to submit additional and more specific comments during the informal and formal comment period.



WASHINGTON REFUSE & RECYCLING ASSOCIATION

June 12, 2024

Peter Lyon
Department of Ecology
Solid Waste Management Program Manager
Olympia, WA

RE: Depackaging Facilities and the State's Solid Waste System – Fall 2024 Organics Rulemaking

Dear Mr. Lyon:

The Washington Refuse and Recycling Association (WRRA), writes today regarding the development of organics depackaging facilities in Washington State. WRRA members represent a large fraction of the State's solid waste and organics management infrastructure, from education and collection programs, to hauling, processing and end markets. With regard to organics management, we serve our communities, protect the environment, and increase the diversion of recyclable and organic materials from landfills. Source separation is key to our success in achieving these results.

The Department's waste facility regulations, and their enforcement, play a key role in ensuring the success and long-term environmental and economic sustainability of Washington's regulated solid waste collection system. There is growing evidence that depackaging facilities that do not have responsible regulatory standards will move Washington backwards on recycling packaging and organics, thus threatening the environmental and climate goals set by the State. Our State has ambitious but achievable goals for increasing the diversion of recoverable resources from landfills and returning them to beneficial use.

We believe depackaging operations within Washington may be accepting non-source separated solid waste (i.e., commingled organics, recyclables, and garbage or "municipal solid waste") and utilizing depackaging machines to recover only a portion of the organics and recyclable content. The residual waste, estimated at upwards of 40% of the total inbound material, is contaminated and must be sent for landfill disposal. If true, materials that previously were being recycled and composted are now being landfilled, in clear disregard of the State's established goals for environmental and climate outcomes.

Washington's waste, recycling and compost laws recognize that all diversion of waste from landfills begins with one fundamental concept: source separation. "Source separation" means the separation of different kinds of solid waste at the location where the waste originates. RCW 70A.205.015(26). The Washington legislature identifies source separation as a fundamental strategy of solid waste management. RCW 70A.205.005(5). "Collection and handling strategies should have, as an ultimate goal, the source separation of all materials with resource value or environmental hazard." RCW 70A.205.005(5). Furthermore, it is the responsibility of "state, county, and city governments to provide for a waste management infrastructure to fully implement" source separation strategies. RCW 70A.205.005(5)(b).

Considerable investment of time and taxpayer funds have gone into the development of these source-separation programs in Washington. This critical work over previous decades has led to increased organics diversion, lower contamination levels in feedstocks sent to compost facilities, and consequently higher quality recycled products. Depackaging facilities jeopardize these advances.

From our collective experience, we would like to emphasize the following key points of concern:

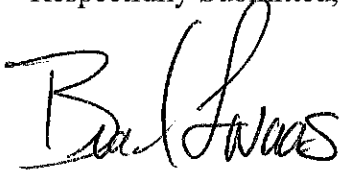
1. More material is going to landfill disposal. Enabling depackaging facilities to accept non-source separated municipal solid waste with a "take it all" model just discourages source separation and equates to more landfilling. Recyclables and organics that were previously recovered are now being disposed of as garbage. This is a giant, and avoidable, step backwards. More landfilling undermines the methane reduction/climate goals of ESSHB 2301, passed in 2024, and HB 1799, passed in 2022.
2. Threat to Washington's source-separated system. The emphasis on source separation at the point of generation cannot be overstated, and the State's intent on this subject is clear. In HB 1799, the legislature determined that source separation was not just a goal or a fundamental strategy, but a statutory requirement for businesses sending material to organic management facilities. Businesses that are subject to the organics management requirements of HB 1799 and that comply by contracting with an organic waste collection and management service **must** source separate "organic material from other waste." See RCW 70A.205.545. Thus, the legislature has determined that for those businesses source separation is not optional. Food waste must be separated from non-organic packaging at the location where the waste originates. This concept must serve as the foundation for the new rules Ecology plans to develop.
3. Lack of standards for depackaging. There are no current regulatory standards for inbound contamination allowances for depackaging facilities. The default permitted allowance for compost facilities by regulation is 5% inbound contamination. No compost facilities in Washington willingly accept garbage or recyclables as per their acceptance list.
4. Enforcement is critical for transparency. Building a strategic framework for depackaging should include a component that identifies both the role and funding for enforcement. This will enhance accountability in daily operations, aiming to improve environmental outcomes and create a fair and equitable business environment in Washington.

WRRRA and its members do not oppose anaerobic digestion (AD) for organics management; in fact, at least one signatory is pursuing an AD project and intends to comply with state source-separation laws.

While it is possible depackaging may be a helpful tool in the future towards achieving shared goals, WRRRA strongly encourages narrowly tailored regulation and standards, including how those apply to solid waste handling permits for entities using depackaging equipment to ensure compliance with the source separation mandate of HB 1799 and an ongoing commitment to our shared environmental and climate goals.

We look forward to engaging with Ecology during future rulemaking. Thank you for considering our perspective on these important issues.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Brad Lovaas". The signature is written in a cursive, flowing style with a large initial "B".

Brad Lovaas, Executive Director