CEDAR GROVE®

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August 3, 2025

Mr. Chris Fredley
Rules Coordinator, Department of Ecology
300 Desmond Drive Southeast
Lacey, WA 98503

RE: Cedar Grove's Second Informal Comments on the Organic Materials Management Rulemaking

Dear. Mr. Fredley,

Thank you for providing Cedar Grove with the opportunity to informally comment on the Organic Materials Management Rulemaking. Cedar Grove is an industry-leading environmental solutions company. We operate two large-scale compost facilities and deploy the state's largest commercial organics collection fleet which together are able to collect and process over 350,000 tons of organic material each year.

Several laws recently passed by the Washington State Legislature have a goal of diverting organic waste from the landfill and reducing greenhouse gas emissions. As a company, Cedar Grove shares these goals and has created programs that are effective and compliant with state laws and regulations. However, based on recent conversations with the Department of Ecology ("Ecology") staff, we are concerned that the agency is moving towards an interpretation of the law that will move Washington in the wrong direction on these stated legislative goals. The legislative and stakeholder work focused on collaboration between generators, local governments, haulers, and processors to expand organics processing, increase diversion and reduce landfill disposal. Increased regulation on compost facilities without comparable regulation on other processors seems to run counter to these efforts and will disproportionately impact the facilities most essential to achieving state diversion targets. We offer the following comments on the draft concepts in an effort to inform the final rules and ensure that they align with the state legislative goals.

1. **Ecology's Rules should align with achieving the legislative intent of the Organics Management laws.**

Landfills are a significant source of greenhouse gas emissions in Washington, and diverting organic material to productive uses has the potential to reduce methane emissions. In an effort to reduce greenhouse gas emissions from landfills, the Legislature set a goal of reducing by 75 percent the amount of organic materials disposed in landfills by 2030. (RCW 70A.205.007). Source separation is key to achieving these stated goals. RCW 70A.205 requires "…local

governments to begin providing separated organic material collection services within their jurisdictions in order to increase volumes of organic materials collected and delivered to composting and other organic material management facilities and reduce the volumes of organic materials collected in conjunction with other solid waste and delivered to landfills…" by 2027.

It is clear that the Legislature intended source separation to play a primary role in diverting waste from the landfill, increasing organics recycling rates, and diverting food waste to a clean organics stream or for food recovery. The law further requires "…some businesses to manage their organic material wastes in a manner that does not involve landfilling them, in order to address one significant source of organic materials that currently frequently end up in landfills."

Source separation is – and has been – key to increasing waste diversion rates. Over the past twenty years, more and more commercial businesses, such as grocers and other businesses with high levels of waste, have separated their waste into garbage, recycling, and organics bins. However, with the new depackaging business model, Ecology has preliminarily indicated that these items can be commingled into one bin and that will be considered "source separated." This interpretation to allow recyclables and landfill waste, such as plastic packaging, into the current source-separated organics stream is creating systemic issues for a clean organics stream and, we believe, will lower rates of recycling and waste diversion. Ecology's interpretation is not aligned with the intent or goals of the laws set forth in statute.

Ecology's preliminary interpretation of source separation is likely to hinder Washington's ability to reduce the landfilling of organic material and recyclables. Some depackaging operations leave large amounts of residuals that become contaminated and are no longer able to be recycled, and instead are disposed in the landfill. This runs counter to the Legislature's directives to limit the landfilling of organics and recyclables. We are very concerned that Ecology's interpretation will increase the amount of recoverable materials sent to landfills.

In 2025, the Legislature recognized that Washington's waste recovery rates have been static since 2011, so they moved forward with SB 5284, the Recycling Reform Act. This law establishes a process by which targets for recycling of packaging and paper products will be set. Due to this new law, as well as existing state statute, it is critical that packaging associated with lightly packaged food be separated so that it can be recycled, rather contaminated by liquid and food waste, where it becomes garbage. These packaging types are exactly the materials covered by SB 5284 and will be subject to the expected stringent recycling targets.

2. Ecology's application of "source separation" should align with achieving maximum diversion rates.

As noted above, source separation is the key to diverting organic waste and recyclable material away from the landfill. Washington's Solid Waste Management Act states that "Source separation of waste must become a fundamental strategy of solid waste management. 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)). The importance of source-separating recyclable materials from non-recyclable materials is built into the current regulatory scheme Ecology has adopted.

Source separation is defined as "the separation of different kinds of solid waste at the place where the waste originates." (RCW 70A.205.015(26)). Ecology defines "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. (WAC 173-350-100). Ecology clarified in this definition that "municipal solid waste" does not include "[m]ixed or segregated recyclable material that has been source-separated from garbage, refuse and similar solid waste." In other words, recyclable materials that are combined with non-recyclable materials constitute municipal solid waste. Only if recyclable materials are segregated from non-recyclable solid waste at the point of generation can the recyclable materials avoid classification as municipal solid waste. Allowing depackaging companies or other organics processors to knowingly accept non-recyclable items would clearly violate the law.

Ecology made the same point in WAC 173-350-021, which is used to determine whether a material is a solid waste. Under that regulation, a material is a solid waste if it has been discarded. (WAC 173-350-021(2)(a)). However, a discarded material will no longer be considered a solid waste if it "has been separated from solid wastes" and meets other requirements specified in the rule. See WAC 173-350-021(3)(b). This regulation and the definition discussed above make clear that when garbage or refuse are combined with recyclable materials, the combination is solid waste.

Ecology staff members have taken the position that organic waste enclosed in plastic or other packaging, including packaging that is recyclable, is considered "source-separated". Under this interpretation, the generator of the waste would not be required to separate organic waste from any of its packaging. The commingled organic waste and its packaging could be sent to a depackager, who would only recover a portion of the previously recoverable items due to the acceptance of non-recyclable waste being commingled with other waste streams. Ecology's position does not appear to be limited to incidental or de minimis amounts of packaging; we understand Ecology to be saying that any amount of packaging (and other non-recyclable items) may be included with organic waste, and the mixture would still be considered source-separated.

This position is contrary to Washington law. As noted above, Washington law requires (with certain exceptions) businesses to arrange for organic materials management services. (RCW 70A.205.545). 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 organic material waste collection and management service to handle the organic waste. (RCW 70A.205.545(3)(a)).

In short, according to the definitions in state law, discarded food enclosed in a conventional plastic container and sent to an organic materials management service is not source separated.

3. The Organics Management Law rules should not allow "organic material" to include plastic packaging that is not from a biological substance.

"Organic material" is defined as "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." Organic material does not include plastic packaging, which is not a biological substance of plant or animal origin. (RCW 70A.205.15). Plastic is a synthetic substance made from natural gas or petroleum, and cannot be considered organic material under the statutory definition.

Thus, the statute requiring businesses to "[s]ource separat[e] organic material from other waste" requires them to separate waste that is capable of microbial degradation, such as food or yard waste, from other waste that is not biodegradable. Because plastic packaging originates from petroleum and natural gas and is not capable of microbial degradation, it constitutes "other waste" for purposes of RCW 70A.205.545. Consequently, plastic packaging must be separated from organic waste to satisfy the source separation mandate in that statute. Ecology staff has stated that food embedded in packaging fits the definition of source separate organics, and we disagree with that interpretation and are concerned about the impact it will have on landfill diversion and a clean organics stream. For this reason, it will be important for Ecology to develop a clear definition of "source separated organic materials" that is consistent with current statutes.

4. Composting will continue to play a critical role in Washington's environmental and agricultural strategies.

Composting is a foundational component of Washington's solid waste management system. Proposed rules that include tighter restrictions need to be thoroughly evaluated and substantiated due to the potential increased burden on these critical facilities. Composting is a process utilized by large and small facilities across the state to divert the vast majority of the state' s current organic materials from landfills and back into productive use as compost products. Additionally, compost is an integral part of agriculture while also being used as a natural filter for toxic chemicals, such as 6-ppd, in stormwater runoff, which contributes to salmon restoration. Compost is used by public and private entities, such as large transportation projects, as well as by farmers and individuals in home gardening and returns key nutrients to soil and landscapes. California's organics laws show us we need to support and expand composting in Washington state so Ecology's rulemaking should ensure composters in Washington thrive.

5. Depackaging Facilities should have contamination limits and pre-processing limits to reduce waste going to the landfill and align with the state's prohibition on landfilling recyclable material.

Recycling programs should not include the willful acceptance of contamination requiring landfill disposal, and state law expressly prohibits the landfilling of recyclables. (RCW 70A.205.310). "Recyclable materials" are defined as "solid wastes that are separated for recycling or reuse, such as papers, metals, and glass, that are identified as recyclable material pursuant to a local comprehensive solid waste plan." (RCW 70A.240.020). Allowing pre-processing to take these materials appears to be a clear violation of the law, and will almost certainly increase the amount of recyclables going to landfill. Published recovery rates for out-of-state depackaging facilities average around 60% and more study is needed on efficacy[1].

Allowing for commingled waste streams to be collected together, rather than source separated at the point of generation, runs counter to the state's prohibition on landfilling recyclable material. Recyclable material that has been commingled with organic material becomes contaminated, especially in the depackaging process, and is then sent to the landfill, rendering it non-recyclable.

Ecology's proposed tightening of standards for finished compost will add additional burdens for compost facilities without corresponding measures for upstream contamination control or parallel requirements on alternative processors. The proposed concepts set a more stringent 2% inbound contamination limit for compost facilities. Yet Washington already has one of the strictest inbound contamination limits in the country at 5% and we support the current standard that allows facilities to utilize their discretion based on their investments in equipment, staff and technology. Additionally, current standards for finished compost are working. A vast majority of current compost end users (e.g., landscapers, DOTs, homeowners) accept the existing standards along with USCC Seal of Testing Assurance (STA).

We are concerned that this lower contamination limit could act as a disincentive for composting if the rules lack similar standards for inbound material at depackagers, as well as recovery standards for those facilities. Specifically, we would like Ecology to develop clear, enforceable standards for pre-processing facilities, including inbound contamination limits, mandatory recovery rates, a prohibition on accepting easily separable recyclable materials, a prohibition on commingling source separated food residuals with packaged food, and robust reporting and third-party auditing. The current lack of standards for pre-processing means good recyclable items are allowed to be sent to pre-processing where they will be cross-contaminated, rendered into garbage and ultimately landfilled.

[1] https://www2.calrecycle.ca.gov/RecyclingDisposalReporting/Reports/MixedWasteOrganicSourceSeperatedRecovery

6. Ecology should define "Depackaging" and limit its application to heavily packaged foods.

As publicly noted, Cedar Grove does not oppose depackaging technology, as long as depackaging technologies do not backslide on the environmental outcomes and goals of our Organics Management Laws. We encourage Ecology to look to Vermont on how they have handled depackaging facilities in their state, and the sideboards that they put on depackaging in order to align with their Universal Recycling Act that banned food residuals from landfill disposal.

After implementation of Vermont's Universal Recycling Act and the subsequent rise of depackaging technology coming into their state, there was significant concern from stakeholders around implementation of the source separation and food recovery requirements. The Vermont Legislature convened a stakeholder workgroup to make recommendations on depackaging technology and its role in their food waste management system. One key recommendation that came from the workgroup was "Generators of food residuals need to keep food residuals (including food residuals that are in packaging and that which is unpackaged) separate from their trash. Thus, packaged and unpackaged food residuals shall not be mixed with other trash at the point of generation."[2]

Vermont's draft rules[3] were recently released and clearly define requirements for how to manage food residuals in the state. They require source separation at the point of generation and prohibit commingling of source separated food residuals with other waste while clearly defining cases in which generators are permitted to send food residuals to depackaging facilities. We agree with Vermont's proposals to limit depackaging to heavily packaged food, rather than it being used as a technology that allows for entities to avoid basic source separation at the point of generation all together. This is a good model for Washington.

Cedar Grove supports this approach and recommends that Ecology incorporate this level of specificity on the role and regulations of depackaging into their draft rules. Vermont's draft rules allow depackaging technology to play a potentially important role in the waste management system at a point in the waste management stream where environmental outcomes will improve as a result of depackaging. With current technology, this means heavily packaged foods that are not easily separated into a recyclable material stream and an organics stream. Heavily packaged food is a small percentage of state organic materials, and requiring these materials be processed separately rather than commingled with the other waste streams will better align with Washington's goals around waste diversion. We strongly encourage Ecology to look to

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[2] https://dec.vermont.gov/sites/dec/files/wmp/SolidWaste/Documents/Universal-Recycling/DSG.Packaged%20Food%20Residuals%20Policy%20January%202020.pdf

[3] https://docs.google.com/document/d/1iMt0RqLrz675GIzIVhtxfBtMk2tIgTx0/edit?tab=t.0#heading=h.o9ny8r1t7qcd

Vermont's process and rules for guidance on how to put appropriate sideboards on depackaging technology in order to align with the goals of Washington's Organics Management Laws.

7. Prior to proposing the draft rules, Ecology should investigate the potential environmental impacts of current depackaging operations.

As noted, Cedar Grove and others have significant concerns that the current state of depackaging operations run counter to a variety of Washington's Organic Management Laws. Between now and the release of the Draft Rules, we recommend that Ecology investigate current depackaging operations and compare their recovery rates to a grocer like PCC that continues to source separate their waste at the generator level. Up until recently, other grocers, were able to successfully source-separate a majority of their garbage, recyclables, and organic waste, resulting in less contaminated recycling and organic waste streams. We encourage Ecology to take a deeper look into the potential impacts on all of our waste streams if the current depackaging model does not have strong standards and/or is not limited to heavily packaged food. Source separation has been a key tool for making progress on Washington's diversion goals, and we are concerned that without sideboards, depackaging technology will result in backsliding rather than progress.

Thank you again for providing the opportunity for Cedar Grove to provide informal comments on the Organic Materials Management Rulemaking. We appreciate Ecology's efforts on this important topic, and look forward to continuing to work together as you develop draft rules.

Sincerely,

Jay Blazey
Cedar Grove