WASHINGTON REFUSE & RECYCLING ASSOCIATION

December 12, 2025

Mr. Chris Fredley
Rule Coordinator, Department of Ecology
300 Desmond Drive SE
Lacey, WA 98503

RE: WRRA Comments on Proposed Rule Language

Dear Mr. Fredley,

The Washington Refuse and Recycling Association (WRRA) appreciates the opportunity to comment on the Department of Ecology's draft rule language under WAC 173-350 (Organics Management). WRRA is the longest-serving solid waste and recycling trade association on the West Coast, representing the private-sector solid waste, recycling, and composting industry throughout Washington State since 1947. Our members provide essential public health and environmental protection services, including the collection, transportation, and processing of municipal solid waste and source-separated recyclables and organics.

We recognize the Department's commitment to advancing Washington's organics management framework and appreciate the chance to provide detailed feedback on the proposed rule sections. WRRA's comments build upon our August 1, 2025, submittal on Ecology's Organics Concepts, as well as prior communications and our Source Separation Whitepaper.

Executive Summary

While WRRA supports the Department's goals of improving organics management, we are concerned that several proposed provisions conflict with statute, undermine long-standing source-separated collection systems, and risk reversing decades of progress in recycling and composting.

The draft ownership and load-rejection language conflicts with **RCW 36.58.060**, which assigns ownership of solid waste upon delivery to a disposal or recovery facility. Requiring haulers to retain or impute ownership and liability for tipped waste they no longer control is impractical, unenforceable, and outside Ecology's statutory authority. Ecology has not explained the legal basis for redefining ownership contrary to statute.

WRRA supports codifying the **Two-Box Rule**, which has successfully reinforced generator-level separation. However, other proposed changes—particularly the revised definitions and the creation of new pre-processing pathways—would undermine the rule's effectiveness by enabling mixed-waste collection and contradicting decades of public education on proper separation.

However, the proposed definitions of **source separation**, **organic materials**, and **food waste** exceed Ecology's authority by altering, rather than clarifying, statutory terms. They conflict with **RCW 70A.205.015** and **RCW 70A.205.545**, which require separation at the point of generation and exclude packaging from

organics. Redefining "source separation" to include commingled packaged food would jeopardize business Organics Management Area (BOMA) compliance, degrade material quality, and destabilize Washington's recycling and composting programs at a foundational level.

WRRA is particularly concerned that the draft rules impose **no residual limits** on pre-processing or depackaging facilities. As drafted, such facilities could accept mixed municipal solid waste, recover only minimal organics, and still be deemed compliant under a 2% outbound contamination standard. This framework would push the system toward mixed-waste processing, increase contamination, reduce recycling and composting, and undo decades of education instructing generators not to "put everything in one bin." It would also create an unlevel playing field by holding composters to strict feedstock standards while allowing pre-processing facilities to collect a broad range of heavily contaminated feedstock and to rely on back-end cleanup. Without clear accountability, these operations risk becoming a new hub for sham recycling or composting.

The draft rule further increases costs and regulatory burdens on **composting facilities**, while imposing no comparable standards on pre-processing operations. Such an imbalance contradicts Washington's waste management hierarchy and the Organics Management Law's mandate to divert 75% of organics from landfills by 2030. Making composting more difficult while expanding pathways for mixed-waste processing is inconsistent with state policy and risks suppressing composting capacity.

WRRA supports recognition of emerging biological technologies under **Other Organic Material Handling**, but urges Ecology to apply consistent contamination, testing, and reporting standards across all facility types. For **anaerobic digesters**, solid digestate should continue to be treated as solid waste unless it meets the same quality requirements as compost or biosolids, and Anaerobic Digestion (AD) facilities must not accept mixed municipal solid waste.

Finally, Vermont's recent experience offers an important warning. Allowing packaged food into depackaging systems led to declining compost markets, increased contamination, and widespread abandonment of source separation. Vermont ultimately reversed course, imposing a moratorium on depackaging and reinstating separation requirements. Washington shares many structural similarities, and these lessons should inform Ecology's rulemaking rather than be dismissed.

WRRA COMMENTS

Responsibility for Rejected Loads and Ownership (WAC 173-350-025)

WRRA supports clarifying generator and transporter responsibilities; however, the proposed ownership and liability provisions raise significant operational and legal concerns. WRRA members that operate compost facilities already have the right and ability to reject contaminated loads. It remains unclear why this proposed change is needed. The draft rule proposes that ownership of solid waste remains with the transporter until a load is inspected and accepted by a receiving facility, even if the load has been tipped and says nothing about any generator liability. This language creates a situation in which haulers retain ownership of waste often long after relinquishing physical control and custody at a permitted facility. This approach also conflicts with RCW 36.58.060, which states:

> "Ownership of solid wastes shall be vested in the person or local jurisdiction managing disposal and/or resource recovery facilities upon the arrival of said solid wastes at said facility: provided, that the original owner retains ownership of the solid wastes until they arrive at the disposal site or transfer station or detachable container, and the original owner has the right of recovery to any valuable items inadvertently discarded: provided further, that the person or agency providing the collection service shall be responsible for the proper handling of the solid wastes from the point of collection to the disposal or recovery facility."

The proposed ownership language may also contravene contracts, which reflect the same distinctions in this longstanding statute. Ownership should transfer according to the statutory framework under RCW 36.58.060. While the Legislature tasked Ecology with carrying out a rulemaking to address contamination, the Legislature did not grant Ecology authority to promulgate WACs that contradict statutory provisions.

Washington case law evaluating RCW 36.58.060 can be found in the Sure-Way decision. There, the Utilities and Transportation Commission ("Commission") rejected efforts by one company to construe ownership of waste in a manner that was inconsistent with the statute. The Commission found that the company's agreements and, consequently, its representations to customers were in apparent violation RCW 36.58.060:

> Finally, the protestants argue that Sure-Way misleads its customers with claims of taking title to the waste. Though the Commission is not convinced that the generators [*26] of these wastes have a "cradle-to-grave" liability imposed by federal law, we are also not convinced that the applicant's representations about "taking title" to the waste are not in violation of **RCW 36.58.060**. The applicant could not offer any analysis or explanation why **RCW 36.58.060** does not apply to its operations or how it is able to take title to the waste when the statute clearly states that title remains with the waste generator.

Application GA-868 of Sure-Way Incineration, Inc., 1990 Wash. UTC LEXIS 116, *25-26 (Nov. 30, 1990). While the case was decided on other grounds, the Commission emphasized that "the statute clearly states that title remains with the waste generator." *Id*. The proposed rule language appears to conflict with the operation of the statute, and the examination of the statute by judicial bodies has produced skepticism of efforts to change when title to waste transfers. The Commission's interpretation reflects the plain language of the statute and will likely carry significant weight.

At the 11/5 Listening Session, WRRA attempted to obtain clarification from Staff on this fundamental proposed change to state law. Meeting presenters were unfamiliar with the proposed rule section and its sources and could not field questions on it. WRRA thus asks the Department to report to stakeholders on the following before considering rule changes:

- Has Ecology or the Attorney General reviewed this statute in relation to the proposed ownership-transfer language? If so, what was the outcome of that review?
- What authority does Ecology have to promulgate rules regarding the ownership of waste that conflict with RCW 36.58.060 and how do its proposed changes fit within that framework?

Two Box Rule and Labeling Requirements

WRRA supports the incorporation of the existing "Two Box Rule" into WAC 173-350. The long-standing requirement for clearly labeled recycling containers and the provision of a nearby, adequately sized disposal container has been one of the most effective and practical tools in maintaining separation of materials at the point of generation. Consistent labeling, education, and container placement are cornerstones of successful recycling and organics diversion programs, and WRRA agrees that codifying this standard in the solid waste handling rules will strengthen uniform compliance across jurisdictions. However, WRRA is also concerned that other proposed rule changes—particularly the redefinitions of "source separation" and the creation of new pre-processing facility categories—could undermine the intent and effectiveness of the Two Box Rule. If generators are permitted to place mixed recyclables, organics, and packaging into a single container destined for a pre-processing or depackaging facility, the labeling and separation requirements of the Two Box Rule are nullified and become meaningless in practice.

Definitions of "Source Separation," "Organic Materials," and "Food Waste" (WAC 173-350-100)

WRRA remains deeply concerned that the proposed definitions conflict with state statutes and undermine decades of public investment in Washington's source-separated organics and recycling infrastructure. RCW 70A.205.005(8) outlines Washington State's Solid Waste Management Hierarchy, which prioritizes recycling, then energy recovery, then disposal. By altering the definitions in this manner, the draft language disregards the plain language of RCW 70A.205.005 in at least a few respects. First, the draft language departs from the language of RCW 70A.205.005(8)(b), which provides that recycling "with source separation of recyclable materials" is "the preferred method." Given other statutory provisions discussed below, this reference to source separation should be properly understood as source separation by the generator. Yet the draft language allows generators to disregard any obligation for source separation at their facilities.

Moreover, the draft language disregards the fact that the Legislature prioritizes "[e]nergy recovery, incineration, or landfill of separated waste" over "[e]nergy recovery, incineration, or landfill of mixed municipal solid wastes." *Compare* RCW 70A.205.005(8)(c) *with* RCW 70A.205.005(8)(d). The draft language opens the door to pre-processing and AD facilities that seek to collect mixed municipal solid waste, producing energy from this mixed municipal solid waste that may not qualify for renewable energy credits and landfilling an apparently unlimited amount of residual waste collected as part of their operation. The draft language may also undermine the Legislature's hierarchy by facilitating mixed-waste organics processing that reduces recycling recovery rates and may render resulting products ineligible for renewable energy credits. While WRRA understands that the Department desires to create more pathways for anaerobic digestion ("AD") facilities, any such rulemaking effort must remain consistent with statutes and should further seek to protect decades-long investments in public education surrounding source separation in our recycling and recovery system.

While the Department has the authority to clarify definitions to support rule implementation, that authority does not extend to altering the definitions in a manner that changes their underlying meaning. The proposed addition —particularly the example of commingled, packaged food waste within the definition of "source separation" —substantively revises, rather than clarifies, statutory language.

Both RCW 70A.205.015(26) and the recently adopted Organics Management Law (OML) codified in part at RCW 70A.205.545, make clear that source separation occurs at the point of generation, which presumes the removal of packaging and non-organic contaminants. RCW 70A.205.545(3)(a), for example, provides that "a business" may comply with its BOMA obligations by "source separating organic material waste from other waste . . ." Therefore, the OMLs continue to make clear that the commercial customer has an obligation to source separate organic waste at the point of generation. By redefining "source separation" to include scenarios where food and packaging remain combined until mechanical pre-processing occurs, the draft rule contradicts the statute's express language and undermines the Legislature's direction to prioritize generator-level separation of recyclable and compostable materials. *See* RCW 70A.205.005(4)-(8). Allowing commingled, packaged food waste to qualify as "source separated" dilutes the integrity of the system and risks diverting recyclable packaging and donatable food into disposal pathways. Such a rule provision furthermore conflicts directly with the compliance obligations imposed upon commercial customers subject to BOMAs in RCW 70A.205.545(3)(a). In short, the proposed changes to the definitions exceed the scope of the Department's rulemaking authority because they substantially alter the meaning, intent, and application of the controlling statutes, rather than interpret or clarify them. The proposed changes further undermine the Legislature's broader intent for waste handling in Washington state as expressed through the Solid Waste Management Hierarchy.

Further, the expanded definition of "food waste" appears to include materials from food storage, preparation, or sale without clearly excluding packaging. If the intent is to exclude packaging, the definition should be revised accordingly. If the intent is to include packaging, that inclusion would again seem directly contrary to both statute and decades of recycling infrastructure and organics management practices in Washington.

Organic Materials Pre-Processing (WAC 173-350-215)

For reasons discussed throughout this letter, WRRA is concerned that the draft rule does not establish any standard, limitation, or performance expectations/protocols at pre-processing and depackaging facilities.

WRRA cautions that, under the draft proposed rules, a facility could receive large volumes of mixed municipal solid waste consisting of both food material and packaging, recover only a small portion of organic material, and still be considered fully compliant, so long as the outbound organics percentage meets the 2% physical contamination threshold (with no corresponding limit on residuals generated from the process). At the same time, the proposed changes to the definition of "source separation" would allow a solid waste facility to create its own material list of mixed solid wastes that includes known contaminants. Allowing commingled or contaminated materials into these facilities risks creating an unregulated pathway for mixed municipal solid waste to be processed and labeled as "organic." This undermines local collection systems, flow control ordinances, and public confidence in recycling and composting.

The proposed rules also create a systemic policy problem. Materials that previously would have been source-separated at the generator level—with recyclable packaging directed to recycling markets and organic food waste directed to composting or digestion—could now be routed into pre-processing facilities where the packaging is landfilled. The result is a net decrease in recycling and composting, completely contrary to Washington's statutory waste hierarchy and organics management law, which prioritize maximizing material recovery. See RCW 70A.205.010, RCW 70A.205.545.

Allowing pre-processing facilities to accept commingled loads without any inbound standards or residual limits would additionally reverse more than thirty years of public education efforts that have taught residents and businesses not to "put everything in the same bin." Washington jurisdictions, WRRA members

and the Department itself have invested heavily in consistent messaging, standardized bin labels, and generator-level separation practices to reduce contamination and improve material quality. If large generators and commercial accounts are permitted to divert mixed organics and packaging to pre-processing facilities with no meaningful consequence for contamination or residuals, the marketplace will naturally shift toward the artificially cheaper and convenient option. The result is predictable: increased confusion among generators, higher contamination rates in organics and recycling streams, and a regression toward mixed waste collection behaviors that Washington has already spent decades and millions of dollars to reverse.

The proposed changes also create an unlevel playing field. Compost facilities, who have invested over many years in front-end contamination prevention, generator outreach, route auditing, and feedstock acceptance protocols, will be held to strict feedstock standards, while pre-processing facilities are permitted to rely on back-end cleanup alone. Without residual limits, pre-processing facilities can externalize contamination management to landfills, generating higher disposal volumes while still appearing compliant on paper. Such outcomes are directly at odds with Washington's statutory waste hierarchy, diversion goals, and climate objectives.

WRRA is concerned that the unlevel playing field and relaxed regulatory burden for select facilities resembles historical patterns that enabled sham recycling, where facilities claimed recovery but disposed of the majority of incoming materials. Without residuals accountability, pre-processing risks becoming the next haven for sham recycling and sham composting, allowing commercial customers to disregard their obligations for source separation at the point of generation, seeking out disposal services that do not reflect the lawful taxes and other costs imposed by state and local authorities, and undermining investments in the statewide collection of organics.

Indeed, it is particularly troubling the Department's draft language would provide commercial customers with the flexibility to "place everything in one bin" when this is contrary to the obligations placed on residential customers. The Legislature has required residential customers to subscribe to "source separated" organics collection. RCW 70A.205.540(1)(e) ("beginning April 1, 2030, all persons, when using curbside collection for disposal, may use only source-separated organic solid waste collection services to discard unwanted organic materials.").

WRRA respectfully requests clarification on the following points for the official record:

- Does the Department intend to set any limit, cap, or performance metric for residuals generated at pre-processing facilities?
- The rule requires less than 2% contamination in outbound recovered organics. Does the Department intend this standard to apply to residuals generation as well? Or can these facilities produce unlimited residuals for landfill disposal?
- Has Ecology evaluated the environmental recovery impacts of shifting from source-separation to pre-processing-based mixed waste systems, including expected changes in recycling recovery rates, composting participation, landfill disposal volumes, and statewide greenhouse gas outcomes?
- Has Ecology studied whether the products of depackaging operations, such as biogas, are eligible for renewable energy credits?
- Has Ecology evaluated the consistency of its proposed rules with compost procurement requirements for counties and cities?
- How does the allowance of unlimited residuals align with Washington's Waste Management Hierarchy and requirement to prioritize recycling over energy recovery and recovery over disposal (RCW 70A.205)?

Compost Facilities (WAC 173-350-220)

WRRA appreciates the Department's intent to ensure environmental protection and material quality through updated composting standards. However, the proposed rule substantially increases administrative and financial burdens on compost facilities without demonstrable environmental benefit. While WRRA supports

common sense inbound contamination limits applied consistently across the industry, the draft removes the discretion of local health departments to approve site-specific operational variations—provisions that have worked effectively for decades.

Added engineering, reporting, and inspection mandates may also drive up compliance costs, discouraging participation and diverting organic material to landfills. While WRRA shares the Department's goal to target contamination upstream, the industry believes that it could be incredibly damaging to lower inbound contamination levels to 2% while mandating no similar standards for pre-processing facilities on incoming materials or outbound residuals. This would result in compost facilities being forced to turn away more loads that they actually have the capacity to handle (because they have invested so much time and effort into developing successful "back-end" contamination removal technology), and subsequently, more organic material being landfilled due to nominal contamination levels. Proposed changes to the finished compost standards lack justification as well. The recent Ecology Compost Market Study (page 47) shows an increasing and positive trend in compost sold while less has been stockpiled. This study shows that the compost market is healthy and increased restrictions will only unnecessarily restrict supply. Additionally, the proposed rules lack guidance on what the compost facility is supposed to do when the inevitable pocket of contamination triggers non-compliance. Assuming the facility will have to cover the burden of additional processing, handling, screening or disposal would be a drastic and costly burden for compost facilities especially under rules that are intended to strengthen the industry.

By significantly increasing the regulatory and cost burden on composting facilities—while simultaneously proposing definitions and facility standards that may shift more feedstock toward depackaging and anaerobic digestion—the draft rule risks suppressing and diminishing composting capacity at the same time Washington law directs the state to expand it. The proposed changes seemingly run counter to Washington's established Solid Waste Management Hierarchy and the goals of the OMLs, which sets a statewide goal of diverting 75% of organic materials from landfill disposal by 2030. Making it more difficult to compost, while broadening incentives for mixed-waste mechanical processing, would undermine progress toward the 75% diversion goal, reduce local soil amendment production, and move Washington away from the recovery priorities the Legislature clearly set. The proposed rule would also raise the difficult question of whether commercial customers are complying with their obligations under a BOMA and the OMLs if they are not separating organics from other waste at the point of generation as specifically required by statute. *See* RCW 70A.205.545(3)(a). Furthermore, it is unclear how a county's comprehensive solid waste management plan could account for organics collection that is premised on the collection of mixed municipal solid waste. Pursuant to RCW 70A.205.040-070. "– The jurisdiction may choose to collect food waste source-separated from other organic materials or may collect food waste commingled with other organic materials." RCW 70A.205.540(1)(d).

Other Organic Materials Handling (WAC 173-350-225)

WRRA supports the Department's recognition of emerging biological technologies. However, the contamination standards and permitting thresholds must be applied consistently across all organic material handling pathways to ensure a level playing field. These facilities should maintain contamination limits equivalent to those for compost and digestion facilities and should be subjected to the same recordkeeping, testing, and reporting obligations as comparable operations.

Anaerobic Digestors (WAC 173-350-250)

WRRA supports the inclusion of clear testing and contamination limits for digestate and feedstocks. We also request clarity on the regulatory treatment and end-use standards for digestate. Solid digestate from food-

waste anaerobic digestion is, and should remain, classified as solid waste under state law unless and until it meets defined quality standards for safe land application. To maintain consistency across organics management pathways and protect soil and public health, digestate that is proposed for land application should be required to meet the same contaminant, physical contaminant, and pathogen standards that apply to finished compost and biosolids. This ensures that digestate intended to be land-applied remains safe, marketable, and aligned with Washington's soil health and product-quality goals. The Department should clarify that anaerobic digestion facilities may not accept mixed municipal solid waste and reinforce that all organics processing facilities are subject to equivalent contamination and reporting standards.

Lessons from Vermont: Depackaging, Loss of Diversion, and Policy Reversal

During the listening session on November 5, 2025, WRRA raised Vermont's experience as an instructive example of how depackaging and mixed-organics processing can unintentionally erode long-established composting and recycling systems. Ecology responded that Vermont is "too small" to be comparable and will only lead to bigger problems in Washington. We respectfully disagree. The scale of a system may differ between states based on geography and population, but the structural effects of policy choices on markets, diversion outcomes, and contamination dynamics are highly comparable. Recently, an article was published in Waste Dive that helps illustrate our points.

Vermont, like Washington, sought to increase diversion of organic material and reduce landfill disposal. Vermont's regulators initially allowed commingled packaged food waste to be processed through depackaging systems under the assumption that doing so would increase organic recovery. In practice, the opposite occurred. Key outcomes documented in Vermont's experience include:

- Depackaging facilities rapidly absorbed previously source-separated streams from local composters.
- Grocery chains and institutional generators stopped separating packaging from food waste, because they no longer needed to.
- Local composters lost anchor customers, making it financially impractical for many to continue operating or expand.
- Organics that had been composted or donated were instead mixed with packaging, processed mechanically, and routed disproportionately to anaerobic digestion and landfill with lower recovery rates.
- Regulators later acknowledged that this shift introduced higher contamination rates, reduced total compost availability, and undermined community-scale circular systems that the state originally intended to promote.

This is not speculation – Vermont had to reverse course. The state legislature placed a moratorium on new depackaging facilities and directed the Agency of Natural Resources (ANR) to develop new rules to re-establish source separation as the foundation of organics management. The new rules make many changes to the Solid Waste Management Rules including:

- New definitions for "depackaged food," "packaged food," "mechanical depackaging," and "food residual drop-off."
- Prohibitions:
  - Comingling source-separated food residuals with packaged food
  - Treatment of source-separated food residuals via mechanical depackaging unless pre-approved by the ANR program.
- Operational requirements for mechanical depackaging, Composting, and Anaerobic Digestion Facilities.
- Adds operational requirements specific to Mechanical Depackaging Facilities stating:
  - Packaged food materials that could contaminate the recovered organics or harm public health or the environment may not be accepted or processed.
  - Facilities may not accept source-separated food residuals that are mixed with packaged food.

- Equipment and processes must be operated and maintained to minimize contamination in recovered organics and ensure optimal recovery consistent with the types of materials being processed.
- Facilities must provide adequate staffing to manually remove film warp, cardboard, boxboard, and other non-food packaging prior to processing. Recyclable material should be recovered to the extent practicable.

Importantly, Washington is far more structurally similar to Vermont than the Department suggested, for purposes of evaluating depackaging impacts. Vermont and Washington both have rural collection networks, small haulers, and regionally distributed composting capacity. Vermont's legislative intent centered on local circularity, community-scale composting, and feedstock quality – values shared deeply in Washington's organics sector. Finally, both states have organics diversion mandates and have invested in public education promoting source separation. While Department staff again suggested at the recent listening session that Vermont may be "too small" to make comparisons to Washington, this overlooks the various similarities between the two states. Moreover, it overlooks the fact that companies operating depackaging machines are seeking to expand their operations and processing capacity in Washington state.

The Department regularly cites California when discussing organics collection policy, permitting standards, and contamination reduction strategies. We cannot selectively consider California a comparable system while dismissing Vermont, simply because Vermont's cautionary tale contradicts the direction Ecology Staff appears to be promoting. The lesson from Vermont is not about size, it's about trajectory: If pre-processing and depackaging are not limited to source-separated organics — and are allowed to create their own acceptance lists that include known contaminants with no residual limits — the system will inevitably shift toward mixed-waste collection. Contamination will rise, and composting markets will weaken or collapse as a result.

Washington does not have to recreate Vermont's mistake — especially now that Vermont is actively trying to undo the consequences of its earlier policy choices. The Department should incorporate Vermont's documented outcomes into its rule development by re-affirming source separation at the point of generation, in alignment with RCW 70A.205.545, limiting pre-processing to source-separated feedstocks (not mixed waste), and establishing enforceable residual limits so pre-processing does not become a high-volume disposal pathway.

The Department's draft language does not address contamination in biogas and instead only requires testing of the finished products from aerobic composting.

In light of the concerns expressed by the WRRA and other industry members, the Department may respond that it is merely carrying out instructions from the Legislature to address contamination through a rulemaking proceeding. However, we have concerns with the scope of the draft language as compared to the Legislature's instructions. The Department does not appear to fully grapple with the Legislature's instruction to address contamination in "finished products."

Pursuant to RCW 70A.205.540(7), "[t]he Department must adopt new rules or amend existing rules adopted under this chapter establishing permit requirements for organic materials management facilities requiring a solid waste handling permit addressing contamination associated with incoming food waste feedstocks and **finished products**, for environmental benefit."

The Department provides detailed standards for the testing of finished compost from aerobic composting facilities, as set forth in WAC 173-350-220 and its associated Table 220-B. Aerobic composting facilities are required to obtain detailed testing of their finished compost products on a regular basis.

Despite the Legislature's instruction to address contamination associated with organic materials management facilities' "finished products," the Department's draft language does not appear to require any detailed testing of the finished products resulting from AD Facilities. The Department would require AD Facilities to test their *digestates* for physical contamination prior to distribution but digestates are not finished products. *See, e.g.*, WAC 173-350-350(6)(a)(v). The Department does not propose any testing requirements for

the actual finished product of an AD Facility, biogas. This is another instance where the draft language privileges AD Facilities over aerobic composting.

The Department has not articulated any reasons, based on the Legislature's stated criterion of environmental benefits, as to why this issue was not addressed. However, there are several tests that can and should be conducted on biogas products to determine whether they are eligible for renewable energy credits or pose any environmental hazards, such as tests for Ammonia and heavy metals. There are several other tests that pertain to the suitability for delivery into gas transmission pipelines, such as tests for moisture content, sulfur compounds, and oxygen levels. It seems notable that none of these tests is required by the draft language.

Thus, the draft language only implements a selective portion of the Legislature's instructions by addressing contamination associated with aerobic composting facilities' finished products, holding these facilities to a higher and more demanding standard than that imposed on AD Facilities. WRRA respectfully submits that any revisions to WAC chapter 173-350 should fully address the Legislature's instructions in RCW 70A.205.540(7).

WRRA appreciates the Department's engagement with stakeholders during this complex rulemaking. We welcome continued dialogue and would appreciate participation in any stakeholder sessions prior to the release of the formal CR-102 proposal. In that regard, please direct any questions to India Brine at india@wrra.org or to me directly at brad@wrra.org.

Thank you for your consideration.

Sincerely,

Brad Lovaas
Executive Director, WRRA