

## Seattle Public Utilities (McKenna Morrigan)

Seattle Public Utilities submits comments on the proposed rule language in the attached letter.



August 12, 2026

*Uploaded via Online Comment Form*

**Re: Chapter 173-350 WAC – Organics Management Proposed Rule**

Department of Ecology,

The statutory directive under Chapter 70A.205.540 RCW is to “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.”

Seattle Public Utilities has three significant areas of concern with the proposed rule language released with the CR-102 that we believe are in direct conflict with the scope of Ecology’s rulemaking directive under Chapter 70A.205.540 RCW and as stated in the CR-102 filing.

- 1. Proposed rule language related to “pre-processing facilities” expands the scope of the rulemaking beyond addressing contamination at organic materials management facilities and conflicts with the statutory directive under Chapter 70A.205.540 RCW to address contamination.***

Ecology initially introduced the concept of permitting “pre-processing facilities” for the purpose of managing “organic feedstocks and packaged food to remove physical contaminants...prior to organic materials management.” But the language published in the proposed rule uses the much broader term “source separated solid wastes,” which expands the potential scope of facilities permitted to operate well beyond what is directed to be addressed under this rulemaking. Under the proposed rule, any facility receiving “source separated solid wastes” of any kind would be able to seek an “organic materials pre-processing” permit, even if organic material is a small fraction of the material received. It is unclear what, if any, limitations or parameters would be placed on what types of inbound loads such facilities could receive or what level of material recovery their operations would need to achieve, so long as they could indicate sending any amount of solid waste received for organic materials management. We have serious concerns that this proposed new category of permit would open the door to facilities that operate in ways that undermine the very goals of the chapter related to increasing source separation and recovery of organic materials in the state. Moreover, this language would introduce rules related to all solid wastes, which goes beyond the scope of addressing contamination in organic materials management.

**We respectfully urge Ecology to limit the definition and scope of inbound materials eligible for “organic materials pre-processing” to source separated “organic materials” (as defined in Chapter RCW 70A.205) only and for the specific and limited purpose “to remove physical contaminants prior to organic materials management.” These changes would ensure that the rule is consistent with the statutory directive and does not exceed the agency’s regulatory authority.**

If Ecology wishes to establish new permitting options or additional standards specifically for depackaging facilities that are designed to receive and remove packaging from heavily packaged food to ease the responsibilities on waste generators for source separation of organic materials and increase the recovery of food waste throughout the state, those standards need to be established separately. Depackaging packaged food is not equivalent to pre-processing of source-separated organic materials bound for organic materials management facilities to address contamination, which is the statutory directive and stated scope of this rulemaking under Chapter 70A.205.540 RCW and the CR-102 filing, because categorically packaged food is a combination of food waste and other types of solid waste. As such, **rules to address depackaging fall outside of the scope of this rulemaking.**

**2. *Proposed rule language establishes new requirements for permitted organic materials management facilities that do not have a demonstrated pathway for compliance and cannot be fairly or consistently enforced.***

In the proposed rule, Ecology requires organic materials management facilities to limit physical contaminants in incoming feedstocks to no more than five percent by volume or, if incoming loads exceed physical contaminant limits, to use a pre-processing facility (either separately permitted or within its own operation) to remove physical contaminants and conduct testing to demonstrate that contamination levels in organic feedstocks are below the limit when entering the organic materials management portion of the operation.

While we support the statutory directive and regulatory intent to address contamination in organic materials, **we strongly urge Ecology to adjust the proposed rule language to set physical contamination limits based on weight, and not on volume.** There is no standard method for evaluating contamination on a volume basis. Since material is currently tested and reported on a weight basis, we do not know if 5% by volume is a realistic or appropriate threshold, and yet this proposed rule language establishes new permit requirements that organic materials management facilities must follow based on that threshold.

Also, while the testing requirements for contamination are appreciated, where would facilities send their material to be analyzed for contamination on a volume basis and what methods would those labs use? **We are not aware of any accredited laboratories using a published methodology to test for contamination on a volumetric basis.** In Ecology's own "Preliminary Regulatory Analysis," they discuss contamination in collected organics by weight, not volume. **Adopting a volume-based contamination limit that is linked to required testing and to additional—potentially costly—capital and operating expenses for organic materials management facilities creates the potential for inconsistent and unenforceable application of the requirements.**

We understand that the intention is to provide facility operators with a threshold at which they can visually assess incoming loads of feedstock for the purposes of load rejection or pre-processing deployment. However, given that the proposed rule adds new lab testing and operational compliance requirements associated with this contamination limit, it is critical that the rule establish a metric with an established, consistent, replicable measurement methodology so that the permit requirements can be fairly applied and

enforced. Contamination measurement on a weight basis meets these criteria; contamination measurement on a volume basis does not. **Adoption of an unenforceable contamination limit does not fulfill the statutory directive to address contamination.** Ecology can additionally support visual inspection of incoming loads by providing guidance with examples of what 5% contamination by weight looks like.

**3. *Training requirements for compost facility operators have been drastically reduced from what is currently required – which is counter to efforts to improve facility operations to reduce contamination.***

Ecology has stated that they proposed to weaken the compost facility operators training requirements because they want equitable training requirements between facility types, and currently, there are no local training opportunities for anaerobic digester operators, although national training is available ([Digester Operator School - American Biogas Council](#)). However, we have had multiple opportunities to confirm with a range of facility operators in the state that **holding all facilities to the minimum of the current compost operator standard is appropriate and important in this period of industry growth for the purposes of occupational and environmental safety.** Moreover, analogous training requirements exist for other solid waste and organic materials facilities (e.g. MOLO training with certificate of competency for landfill operators, HAZWOPER training for workers exposed to hazardous substances, and wastewater treatment plant operator training and certification for wastewater treatment plant operators).

In addition to these three priority concerns, we offer detailed comments on additional sections of the proposed rule on the following pages.

Sincerely,



[Susan Fife-Ferris \(08/12/2026 11:40:05 PDT\)](#)

Susan Fife-Ferris

Director, Solid Waste Planning & Program Management Division

Solid Waste Line of Business

Seattle Public Utilities

## WAC 173-350-025 – ~~Owner~~ Responsibilities for solid waste management, storage, and transportation.

We appreciate and support the proposed rule language incorporating statutory language and specifying requirements for containers collecting recyclable materials, and also in clarifying the entity responsible for rejected loads.

One minor concern we have is that the requirements described under (2) for solid waste containers to be water-tight/nonleaking, and with a cover may be challenging and burdensome and unnecessary under certain conditions for jobsites with C&D wastes and recyclable materials.

### **Recommendation:**

**Provide an alternative standard for containers used under certain conditions for C&D jobsites where appropriate.**

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## WAC 173-350-100 – Definitions.

*“**Beneficial use**” means the use of solid waste as an effective substitute for natural or commercial products, or as a soil amendment, in a manner that does not pose a threat to human health or the environment when approved ~~((in accordance with))~~ according to section WAC 173-350-200 or 173-350-230 of this chapter. Use of solid waste as fill, or avoidance of processing or disposal cost alone, does not constitute beneficial use.”*

**Changing the phrasing “in accordance with” to “according to” loses the meaning. ECY should retain the original language.**

*“**Crop residues**” means vegetative material left over from farms from harvesting crops, including ((left over)) pieces or whole fruits or vegetables, crop leaves and stems, and unprocessed produce from storage facilities. For the purposes of this rule, crop residues includes solid or semisolid waste such as, but not limited to, wash dirt and organic material from the washing or trimming of raw agricultural products and preparation or packaging for sale when generated on-farm. Crop residue does not include food processing waste.”*

**Please check the grammar of this definition. “Or packaging” appears to be a dependent clause, which needs to be flanked by commas, and there is an error with the subject-verb agreement in “crop residues includes.”**

*“**Engineered features**” is a new definition added to the draft rule, but it is not clear how it differs from “Facility structures.”*

*“**Mulch**” means a material used for ornamental purposes, weed suppression, and/or moisture holding properties in landscaping and agriculture. Mulch may be made from materials such as plastic sheeting, straw, compost, or clean wood waste. Organic waste materials other than clean wood waste must undergo a transformative organic material management process such as anaerobic digestion or composting under this chapter and pass all testing requirements under the applicable section prior to distribution as mulch.”*

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**Under this new definition, it is not clear if straw would be considered an “organic waste material” needing to undergo organic material management or not.**

**“Organic materials pre-processing”**

We are seriously concerned that the change made to this proposed definition allows for an entirely new category of facilities that are authorized to broadly accept “source separated solid wastes” with no other feedstock limitations and no measurable performance standards for recovery of organic materials or recyclable materials handled. We believe that the proposed rule language in this definition and associated permitting standards section conflicts with statutory directive and stated scope of rulemaking. To ensure that the rule language aligns with rulemaking authority, we strongly urge Ecology to narrow the scope of pre-processing to only receiving organic materials and for the specific purpose of removing physical contaminants.

**Recommendation:**

***“Organic materials pre-processing” means the processing of source separated ~~solid waste~~ **organic materials** to remove physical contaminants ~~and packaging~~ prior to organic materials management.***

**Separate permit requirements should be established under a separate rulemaking for depackaging operations and “packaged food” should be defined so that it may be considered a source-separated solid waste if collected and managed separately from other wastes. In the absence of such a definition, packaged food is a mix of different types of solid waste.**

**Missing definitions that would be helpful if added:** “Anaerobic Digestion” and “Black Soldier Fly” are processing methods mentioned several times throughout the Definitions section; however, the definitions for these methods are missing.