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Seattle, WA 98108

October 19, 2026

Chris Fredley, Rule Coordinator
Solid Waste Management Program
Washington State Department of Ecology
Submitted via online comment form

Re: Comments on draft rule language – Chapter 173-350 WAC, Solid Waste Handling Standards, and Chapter 173-351 WAC, Criteria for Municipal Solid Waste Landfills

Dear Mr. Fredley:

Thank you for the opportunity to comment on the draft rule language. Cedar Grove Composting owns and operates two permitted solid waste handling facilities: Maple Valley in King County and Everett in Snohomish County. Both facilities are permitted and inspected by our local jurisdictional health departments, Seattle King County Public Health and the Snohomish County Health Department. Both departments provide consistent and knowledgeable oversight. Their inspectors know our sites, our operations and our communities, and that working relationship has served public health and the environment well.

We support protecting human health and the environment, and we support the purpose of the 2025 legislation (Second Substitute House Bill 1154, chapter 311, Laws of 2025). That legislation focused on Ecology approval of landfill permits and on a defined backstop enforcement role for Ecology when local enforcement falls short. We take no position on the landfill-specific provisions of the draft.

We are also mindful of the cost of new requirements and the reality of a growing compliance burden on Washington state solid waste handling facilities. Washington state agencies adopted approximately 71 percent more regulations last year than in 2015, and Washington is now the eighth-most regulated state in the country, with more than 200,000 state regulations on the books.¹ Each new requirement adds staff time, consultant fees and the potential for delay. At facilities like ours, those costs are ultimately borne by the jurisdictions, haulers and the customers we serve as pass throughs resulting in higher processing fees. For this reason, it is critical that each proposed rule change be thoughtful and narrowly tailored to help maintain affordability for our customers.

Several provisions in the draft extend beyond the landfill focus of the legislation and would apply to facilities like ours. Our comments are organized in three parts:

- (1) Overlapping enforcement authority;
- (2) Specific changes that would raise day-to-day costs without a clear environmental benefit; and
- (3) Changes to definitions that may carry unintended consequences.

¹Challenge Seattle, *Keeping Puget Sound Strong: A Regional Plan for Jobs and Opportunity* (September 2026), p. 13.

In each case we suggest changes that we believe still accomplish the intent of the legislation.

1. Overlapping enforcement authority

The statute is clear about roles. Under RCW 70A.205.730(1), local government has “the primary responsibility” for issuing permits, administering the regulatory program and imposing penalties. Ecology “shall act primarily in a supportive and review capacity.” Ecology enforces only when a health department defers to it, or when local enforcement is inadequate under specific timelines. Draft WAC 173-350-730 carries this structure forward, and we support it.

Our concern is with provisions elsewhere in the draft that would let Ecology act directly at non-landfill facilities without going through that structure. Two regulators over the same permit means more inspections, more questions, inconsistent direction as staff turnover, and more cost. Where the health department is already doing its job that overlap adds no protection but significant compliance burden.

1.1 Permit suspension

Draft section(s): WAC 173-350-725(1) and (4).

Concern: The draft allows the health department “or the department” to suspend any solid waste handling facility permit at any time for a violation. The statute this implements, RCW 70A.205.140, refers to a permit for a “solid waste disposal site.” The draft broadens that to every handling facility (see 3.1 below). It also does not tie Ecology’s suspension to the cooperative-program triggers or the 30-day notice in WAC 173-350-730.

Ecology’s existing rule does not treat composting as disposal. Current WAC 173-350-100 contains no definition of “disposal site.” It defines “disposal” as the “discharge, deposit, injection, dumping, leaking, or placing of any solid waste into or on any land or water,” and separately defines “composting” as “the biological degradation and transformation of organic solid waste under controlled conditions.” For more than two decades, composting facilities have been regulated under chapter 173-350 WAC as processing operations that divert material from disposal. Importing a “disposal site” definition now, at the same time the draft broadens the department’s suspension authority, would change the regulatory status of these facilities without any direction from the Legislature to do so.

Suspension is the most disruptive tool available. A composting facility that cannot receive material strands haulers and jurisdictions without outlets. This becomes even more consequential for facilities managing material in the residential sector.

Requested change: Limit the department’s suspension authority in subsection (1) to landfills and associated leachate storage.

1.2 Cooperative program terms

Draft section(s): WAC 173-350-730(1)(b) and (2).

Concern: This section will require attention to avoid confusion about who is regulating what for solid waste handling facilities like compost facilities. Ecology involvement should be limited to only extreme cases. Ecology enforcement is triggered by undefined terms including a “reported, credible, alleged violation” and “substantial progress toward resolution.” Composting facilities can receive odor complaints and many of them are unfounded. Health departments must report each one to Ecology under subsection (2). Without clear meanings, a stream of complaints could become the basis for parallel Ecology involvement at a facility that is working cooperatively with its health department.

Additionally, Ecology jurisdiction is triggered by its own determination that the JHD's enforcement action is "inadequate". This term is similarly undefined.

Requested change: Define "credible" to mean a complaint the health department has verified or found reasonably likely to be a violation of this chapter. State that a facility operating under a compliance schedule or corrective action plan approved by the health department is making "substantial progress toward resolution." Clarify that an inadequacy determination requires a violation has been confirmed and that a health department finding that no violation exists ends the matter unless there is an immediate and substantial risk to human health or environment. Ecology's notice of intent to enforce must include the facts showing the violation was confirmed and why the local response was inadequate.

The section also contains two subsections numbered "(3)".

1.3 Compliance with "other requirements"

Draft section(s): WAC 173-350-040(4).

Concern: The existing performance standard requires compliance with other applicable local, state and federal laws and regulations. The draft adds "ordinances, and other requirements." Combined with the new enforcement authority, this could make any local code item or other agency's requirement (air, stormwater, land use) a violation of the solid waste rule, enforceable by two agencies at up to \$10,000 per day. Those requirements already have their own regulators and enforcement processes.

Requested change: Retain the existing language, or limit the subsection to "this chapter and the conditions of a permit issued under this chapter."

1.4 Ecology inspection and sampling

Draft section(s): WAC 173-350-040(3)

Concern: This is another proposed change that will be confusing and extremely challenging for facilities to manage. The proposal gives two agencies the right on their own to inspect and sample at their discretion. A facility may face separate inspection and sampling programs, conflicting results, and staff on site without safety orientation around heavy equipment.

There are constitutional limits to governmental inspections and sampling that must be considered in this proposal. The current version is far too expansive. Facility inspections must be reasonable, limited to regulatory purposes, and tied to specific standards. Open-ended authority to sample anything, anywhere, for compliance with any "relevant" law violates basic legal protections. Rulemaking is the appropriate venue for Ecology to clearly identify in advance which materials or processes are subject to sampling, so regulated entities know precisely what is within scope; adopting an open-ended right to sample lacks that necessary transparency.

Requested change: The proposed sampling language should be removed in favor of facility specific sampling regulation found within current regulations (for example, 173-350-220 for compost facilities). Ecology inspections should be limited to situations of only extreme cases when enforcement authority has been deferred by JHDs. Sampling should only be allowed for materials and processes already subject to sampling via regulation. Proposal language should require coordination between the two

agencies to limit facility burden and require advance notice of processes or materials that will be sampled, document the sampling method, and identify the standard being evaluated.

2. Changes that raise day-to-day costs without a clear benefit

The following changes would add cost to routine operations at existing, well-run facilities. We have not seen an identified environmental problem that each one solves. We ask Ecology to consider lower-cost ways to reach the same goals. We also ask that the small business economic impact statement and cost-benefit analysis for this rule estimate these costs for organics facilities specifically.

2.1 Formal modifications for routine changes

Draft section(s): WAC 173-350-710(4); see also definition of “modification” (comment 3.3).

Concern: With the broadened definition of “modification,” any change to operation, design, capacity, performance or monitoring that relates to a rule requirement needs a formal modification. Each request must be filed at least 90 days in advance, with updated engineering plans, plans of operation and other documents. Routine adjustments, such as reconfiguring pile layout, replacing equipment or updating an operating procedure, could each require a 90-day filing.

Requested change: Create a notice-only track for minor changes that do not increase permitted capacity, add a new waste type, or alter an engineered feature, with health department confirmation within 30 days. Reserve the full process for substantial changes, consistent with the statutory definition of “modify” in RCW 70A.205.015(14).

2.2 Engineered-feature design packages

Draft section(s): WAC 173-350-320(5) and parallel documentation subsections in the handling standards.

Concern: Construction documents for any proposed addition or modification of engineered features must be prepared by a Washington-licensed professional engineer. They must include an engineering report, design specifications, a construction quality assurance plan and record drawings, and the new work cannot be used until approved. The draft does not distinguish new construction from repair, maintenance, or like-for-like replacement of an existing pad, stormwater feature or aeration component. This requirement will be very expensive to comply with if kept so broad.

Requested change: Exclude repair, maintenance and like-for-like replacement of previously approved engineered features. Allow the health department to scale documentation to the size and risk of the change.

2.3 Open-ended review timelines

Draft section(s): WAC 173-350-710(1)(c)(iii)–(iv), (2)(a) and (4)(b).

Concern: The draft replaces fixed decision deadlines with repeating 45-day Ecology comment rounds “as needed” and relies on “exhausting efforts”. The existing rule required a decision on a modification within 45 days of a complete application. Open-ended reviews delay improvements, raise carrying costs and make planning difficult.

Requested change: Keep the current rule as is. Alternatively, we suggest setting fixed timelines: a completeness determination within 30 days, a single Ecology comment period, and a decision within a

fixed period after the application is complete. Remove the “exhausting efforts” language. This will allow for efficient and more predictable application processes.

2.4 Residuals managed as MSW within six months

Draft section(s): WAC 173-350-030(2)(a) and (3)(a); see also definition of “residuals” (comment 3.5).

Concern: Facilities need clarity on the operational impacts to this specific proposal. What is the problem with the current approach to residuals?

Requested change: Confirm that on-site storage of residuals pending removal, under an approved plan of operation, does not create a separate MSW handling unit. Extend the compliance period to at least 18 months.

3. Definitions: concerns and unintended consequences

Definitions drive how the whole chapter is read and enforced. Several new or revised definitions in WAC 173-350-100 could reach further than the draft appears to intend.

3.1 “Disposal site” or “solid waste disposal site”

Draft section(s): WAC 173-350-100 (new definition and drafting note); WAC 173-351-100.

Concern: The draft adds, for the first time, the statutory definition to chapter 173-350 WAC:

“Disposal site” or “solid waste disposal site” means the location where any final treatment, utilization, processing, or deposit of solid waste occurs.

In chapter 173-351 WAC, which applies only to landfills, this definition is harmless. In chapter 173-350 WAC, the words “processing” and “utilization” would make composting facilities, organics pre-processing sites and recycling facilities potentially “disposal sites.” That conflicts with the chapter’s treatment of these facilities as diversion from disposal, and with the state’s organics diversion goals. This also does not make logical sense based on the commonly understood definitions of disposal versus processing. See also comment 1.1.

This proposed change also matters for enforcement. RCW 70A.205.140 allows Ecology to suspend the permit of a “solid waste disposal site.” The definitions section also carries a drafting note on whether to add a “solid waste disposal site” definition, which suggests the approach is not settled.

Requested change: Confirm that organics management facilities are not “disposal sites”. If it is retained, add: *“For purposes of this chapter, a composting, organic materials management, recycling, or material recovery facility is not a disposal site.”*

Question for Ecology: Does the department intend for composting, organic materials management or recycling facilities to be treated as disposal sites under this chapter?

3.2 “Facility” or “site”

Draft section(s): WAC 173-350-100.

Concern: The existing definition covers land, structures, other appurtenances and “improvements on the land used for solid waste handling.” The draft changes this to “activities on the land associated with solid waste handling.” “Associated with” is broader than “used for.” It could pull activities that are not solid waste handling, such as finished product storage and sales, equipment maintenance, offices or

other businesses on the same parcel, into the permitted facility and the scope of inspections, sampling and enforcement.

Requested change: Retain “improvements on the land used for solid waste handling.”

3.3 “Modification”

Draft section(s): WAC 173-350-100.

Concern: The draft defines a modification as “any change in the design, operation, closure, post-closure, financial assurance, environmental monitoring, or other aspect” of a facility that is reasonably related to a rule requirement and not already in the approved permit. The statute defines “modify” as to “substantially change the design or operational plans.” The draft omits “substantially” and adds “or other aspect,” so nearly any change qualifies.

Requested change: Align the definition with RCW 70A.205.015(14) by limiting it to substantial changes in design or operational plans.

3.4 “Engineered features” and “facility construction”

Draft section(s): WAC 173-350-100.

Concern: The new definition of engineered features is an open-ended list (“include but are not limited to”) covering tip floors, impervious surfaces, stormwater features, shelter structures, aeration systems and more. Each feature triggers professional engineering packages and approvals. “Facility construction” is also revised to mean constructing engineered features, which affects which facilities are “existing” for purposes of the effective dates.

Requested change: Make the list exclusive. Exclude repair, maintenance, like-for-like replacement, and temporary or portable equipment.

3.5 “Residuals” and “municipal solid waste”

Draft section(s): WAC 173-350-100.

Concern: The new definition raises several concerns and is one of the most impactful proposed changes as part of this rulemaking. First, there are practical consequences for composting. Composting facilities generate a small but steady residual stream like plastics, glass and metal screened from feedstock and finished product and non-compostable items mixed into curbside organics. Under the draft, that material would need an added stop at an MSW transfer station before reaching a landfill. That means an extra haul, a second tip fee, and more handling, fuel and truck traffic. Those costs pass through to the jurisdictions and ratepayers who fund organics collection programs.

Second, the definition itself carries a routing mandate. It requires that the residual stream leaving every recycling, organics and reuse operation in the state be managed at an MSW handling facility, unless a local flow control ordinance says otherwise.

Third, oversight of the routing of solid waste materials is best suited with the Washington Utilities and Transportation Commission. The question is pending before the UTC. Whether, how and to where residuals may be transported is the subject of an open rulemaking (Docket TG-260161). For roughly sixty years, the UTC has treated hauling residuals to disposal as unregulated. Commenters across the industry in that docket, including certificated haulers, recyclers and composters, have opposed changing that practice. The UTC must resolve the question under its own statutes.

Requested change: Remove the routing mandate from the definitions of “residuals” and “municipal solid waste” pending the UTC rulemaking. Reevaluate whether this proposed change is necessary clarify for solid waste handling facilities the implications for their operations by facility type.

3.6 “Salvaging” and MRF Recovery Rate

Draft section(s): WAC 173-350-100.

Concern: The draft appears to contain two different definitions of “salvaging,” one in WAC 173-350-100 and another in WAC 173-351-100. We ask Ecology to confirm which is intended and to use one consistent definition. We also share the concern that, read together with the new transfer station threshold, salvaging may create a pathway for a facility that falls below the MRF recovery rate to re-permit as a transfer station and keep operating largely unchanged. We ask Ecology to clarify how these provisions are meant to work together.

We are still getting educated on the proposed 75% recovery rate and do not have a position at this time. Note that the 75 percent threshold in the “material recovery facility” definition is measured by volume, while the related thresholds in the “transfer station” and “salvaging” definitions are measured by weight.

Requested change: We ask Ecology to use one consistent measure.

3.7 Incomplete definitions and missing sections

Draft section(s): WAC 173-350-100; WAC 173-350-220, -225, -230 and -250.

Concern: Several definitions are unfinished: “solid waste disposal site” and “solid waste activity” appear only as drafting notes, and “recyclable materials” ends mid-sentence.

Requested change: Release complete text and provide an additional opportunity to comment before the formal rule proposal.

Conclusion

Thank you for considering these comments. We share the goal of protecting human health and the environment, and we believe these changes would keep the rule focused on that goal while holding down cost for the facilities and communities that rely on them.

Respectfully,
Jay Blazey
General Counsel, Cedar Grove Composting, Inc.