

## Seattle Public Utilities

Comments are attached and have been submitted via USPS also. Tracking shows that the comment letter should have been received July 3. Thanks, Sego Jackson on behalf of Susan Fife-Ferris.



**City of Seattle  
Seattle Public Utilities**

June 26, 2017

Tami Ramsey  
Waste 2 Resources Program  
Washington State Department of Ecology  
PO Box 47775  
Olympia, WA 98504-7775

**Re: SPU Comments on proposed amendment to WAC 173-312**

Ms. Ramsey –

Thank you once again for providing the opportunity to review and comment on the proposed amendment to WAC 173-312. As you may remember, the City of Seattle also provided written comments dated March 29, 2017 after reviewing the WAC 173-312 informal draft rule revisions presented on March 22, 2017. That letter is attached for reference.

The City of Seattle operates its own solid waste system and is a solid waste planning authority with its own Ecology-approved Solid Waste Management Plan. Seattle also has a diverse and actively engaged Solid Waste Advisory Committee (SWAC). Seattle's first solid waste plan was the 1989 Integrated Solid Waste Management Plan, *On the Road to Recovery*. In the proposed amendment to WAC 173-312, Seattle would be considered an "Independent City."

In our letter submitted March 29, 2017, we commented that the definition for "Independent City" was unworkable and would impact Seattle's long-standing status as a planning authority eligible for financial assistance. Thank you for incorporating our proposed solution and addressing our concern. It is our understanding that the definition of "Independent City" combined with the inclusion of transfer stations in the definition of "Disposal Site" is meant to and will ensure Seattle's continued status as a planning authority eligible for financial assistance.

Additional comments follow and include comments that may not be of direct concern to Seattle specifically, but could impact the overall success of the financial assistance for other entities. A successful program for both large and small governments benefits us all.

**Section 020 – Definitions**

- **Contributed Services** – *"Contributed services" means project-eligible services performed for the benefit of a project under a valid interlocal agreement by a third party without direct monetary compensation."*

There appears to be some issues with the interplay of several definitions, proposal to strike out definitions, and Section 173-312-090. Upon more careful review of the existing rule, 173-312-

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090 restricts local cash match to cash expenditures and interlocal costs, which by definition are through agreement with other government entities. This would not allow in-kind contributions by non-government parties or volunteer labor, though the basis for this in statute is unclear.

The potential issues are outlined below.

1. Unlike the existing text in 173-312-020 for "In-kind contributions," the definition of "Contributed services" introduces the need for a "valid interlocal agreement." Interlocal agreements exist between governments. This would in effect prevent businesses, NGOs, or others from providing in-kind services. That may be intended. If so, a preferred approach would be to simply state it by rewriting the definition to read:

*"Contributed services" means project-eligible services performed for the benefit of a project under a valid interlocal agreement by ~~a third party~~ another government entity without direct monetary compensation."*

2. Also, the term "interlocal agreement" will have varied interpretations by various governments and our attorneys. Some will interpret the term to mean a specific legal instrument with specific requirements for adoption, such as adoption by a City or County Council. There is often no need for that level of approval for a valid agreement to be put in place and this rule should maintain flexibility as to the actual instrument used.

This can be addressed with an additional change by striking the term "interlocal" from the definition, such that it would read:

*"Contributed services" means project-eligible services performed for the benefit of a project under a valid ~~interlocal~~ agreement by ~~a third party~~ another government entity without direct monetary compensation."*

- **In-kind interlocal** – "*In-kind interlocal*" means in-kind contributions ...  
This would make more sense and perhaps be more useful if rewritten to read:

*"In-kind interlocal contributions" means in-kind contributions ...*

Then, if WAC 173-312-090 (2) was rewritten from:

*"The local contribution may be met by cash expenditures and contributed services."*

To:

*"The local contribution may be met by cash expenditures and ~~in-kind local contributions~~ contributed services."*

These changes could eliminate the need for the new proposed definition "contributed services" and avoid the issues outlined above.

- **Lack of Composting or Organic Materials Management definition** – Note there is no definition for composting or organics materials management, but there is for recycling. WAC 173-350 provides separate definitions for composting and recycling. Past financial assistance

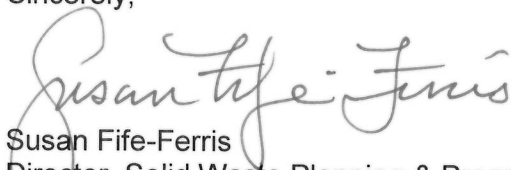
has covered organics management, including prevention, and should continue to do so. Therefore, Seattle requests the inclusion of a reference to “organic material management” and a definition. “Organic material management” would span the range of activities related to prevention and processing organic materials, and would complement the definition of “organic materials” in WAC 173-350.

**WAC 173-312-050 – Project and cost eligibility**

- WAC 173-312-050 (3)(b) pertains to local solid waste plans and programs that are eligible for financial assistance, including plans and programs that “reduce waste and recycle” (WAC 173-312-050 (3)(b)(ii)). While we understand that “reduce waste and recycle” might be a broad description that can include waste prevention and organics management, these are critical areas that have been funded by the program in the past and it would be beneficial to have them called out separately here. Sub-section (3)(b)(ii) could be revised to read: “Reduce and prevent waste, manage organic materials, and recycle.”

Again, thank you for providing an opportunity to comment on the proposed WAC amendment. Please contact Sego Jackson of SPU Solid Waste Planning at 206-615-0706 if you have questions or want to discuss these comments.

Sincerely,



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**City of Seattle**  
Seattle Public Utilities

March 29, 2017

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**Re: SPU Comments on Draft WAC 173-312 Revisions**

Thank you for providing the opportunity to review the WAC 173-312 informal draft rule revisions presented on March 22, 2017.

City of Seattle operates its own solid waste system and is a solid waste planning authority with its own Ecology-approved Solid Waste Management Plan and a diverse and actively engaged Solid Waste Advisory Committee. Seattle's first solid waste plan was the 1989 Integrated Solid Waste Management Plan, *On the Road to Recovery*. In the informal draft rule revisions, Seattle would be considered an "Independent City."

Comments below address concerns regarding the definition used for Independent City and related issues. Comments are also included that may not be of direct concern to City of Seattle specifically, but could impact the overall success of the financial assistance for other entities. A successful program for both large and small governments benefits us all.

**Section 020 – Definitions**

- **Independent city** – *"Independent city" means a city that has a department approved local solid waste plan, used a solid waste advisory committee or a SWAC-like entity to develop the plan, and can provide for the management of its solid waste wholly within its jurisdiction."*

This definition is not workable and is not consistent with the requirements of existing 173-312-040 (1). Text in -040 (1), pertaining to eligibility for grants, references cities that have independent plans in place prior to the effective date of the rule and: *"This eligibility also extends to any city subsequently requesting funding for preparation of an independent plan, if the city provides for disposal sites wholly within its jurisdiction."*

The provision of disposal sites wholly within a jurisdiction is not the same as providing for the management of its solid waste wholly within its jurisdiction. Solid

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waste management includes by definition compostables and recyclables. We want to ensure that changes to 173-312 do not impact our status as a planning authority or our access to financial assistance. Revising the definition to include reference to “disposal sites” may be part of the solution.

- **Disposal site** – *“Disposal site” means the location where any final treatment, utilization, processing or deposition of solid waste occurs which can include a transfer station as defined in chapter 173-350 WAC. For the purposes of this rule, transfer stations do not include drop box facilities.”*

Inclusion of transfer stations within this definition helps deal with the issue with the independent city definition above and is used in section 040 concerning applicant eligibility. Does the word “final” need to be inserted before the words utilization, and processing, and deposition to ensure no confusion with recyclables and compostables?

- Note there is no definition for composting, but there is for recycling. 173-350 WAC provides separate definitions for composting and recycling. Past financial assistance has covered organics management, including prevention, and should continue to do so. Therefore, there needs to be reference to “organic material management” and a definition. “Organic material management” would span the range of activities related to prevention and processing and would complement the definition of “organic materials” in 173-350 WAC.

- **Contributed Services** – *“Contributed services” means project-eligible services performed for the benefit of a project under a valid interlocal agreement by a third party without direct monetary compensation.”*

Unlike the existing text in 173-312-020 for “In-kind contributions,” the definition of “Contributed services” introduces the need for a “valid interlocal agreement.” There are several issues here. First, interlocal agreements exist between governments. This would in effect prevent businesses, NGOs, or just citizens themselves from volunteering or providing in-kind services that could be used to offset the local government’s match requirements. This is an unnecessary potential hindrance to governments with small and tight budgets and does not reflect the community value of local civic engagement. If Ecology wants an agreement of some kind in place, creating a new definition for “Contributed Services Agreement” might be warranted and it should be something along the lines of this:

“Contributed Services Agreement” means a document stating intent to provide contributed services to a project and may be in the form of an interlocal agreement,

memorandum of understanding, letter of agreement, volunteer agreement, or other suitable documentation.

In addition, relevant definitions from the WAC 173-350 Preliminary Draft 2 should be incorporated.

### **Section 050 – Project and cost eligibility**

- Section -050 (3) (b) pertains to local solid waste plans and programs that are eligible for financial assistance.

-050 (3) (b) (ii) “Reduce waste and recycle.”

Note that organic material management or composting is not listed as an eligible activity. This needs to be corrected for here and/or in the definitions. It may be beneficial to further clarify through rewriting to read: “Reduce waste, *manage organic materials, reuse products and materials, and recycle.*”

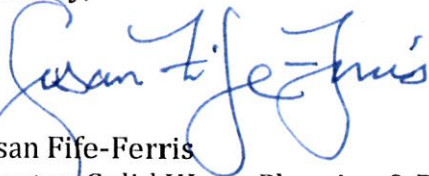
- Section -050 (4) (b) pertains to projects or costs that are not eligible for financial assistance.

It is unclear what -050 (4) (f) pertains to.

It is unclear why -050 (4) (h) would cover natural disasters only if there is hazardous contamination. Depending on the disaster, there could be significant recyclables and organics to manage.

Thank you once again for providing an opportunity to review and comment on the informal preliminary draft Rule. Please contact Segoo Jackson of SPU Solid Waste Planning at (206) 615-0706 if you have questions or want to discuss these comments.

Sincerely,



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