



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION
1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250
(360) 664-1160 • www.utc.wa.gov

March 20, 2018

Kyle Dorsey, Senior Planner and Rulemaking Lead
Department of Ecology
PO Box 47600,
Olympia, WA 98504-7600

RE: Department of Ecology proposal to amend the Solid Waste Handling Standards in Chapter 173-350 of the Washington Administrative Code, AO#13-08.

Dear Mr. Dorsey:

The Utilities and Transportation Commission (commission) appreciates the opportunity to comment on the Department of Ecology's (Department) proposal to amend its solid waste handling standards. The commission limits its comments to the new section, WAC 173-350-021 Determination of Solid Waste, and changes to section WAC 173-350-100 Definitions, which affect the commission's ability to regulate solid waste haulers under its jurisdiction.

The commission has specific concerns in the proposed wording in new subsection WAC 173-350-021(3) which establishes a new series of criteria for material not to be considered a solid waste.

- A. WAC 173-350-021(3) of the proposed rule requires the satisfaction of five criteria before collected material will be no longer considered a solid waste. Subsection (3)(b), reads "[Material will not be considered solid waste when it] has been recycled, or is ready for reuse, as defined in WAC 173-350-100." WAC 173-350-100 does not define "recycled," but because it is in the past tense, we must assume it is referring to material that has already been transformed or remanufactured into usable or marketable materials.
1. Subsection (3)(b) is inconsistent with subsections (3)(a), (3)(c), (3)(d), and (3)(e) because a literal reading of (3)(b) would require the recycling process to be completed before material is no longer considered solid waste. For example, under subsection (3)(b) as currently written, a bundle of aluminum cans would still be solid waste. WAC-173-350-021(3)(b) should be changed to read [Material will not be

- considered solid waste when it] is recyclable material, as defined in WAC 173-350-100.
2. In addition to the above wording change, we request the separation requirement be returned to the rule. The Department's prior draft rule included a requirement that recyclable material be separated from solid wastes in 173-350-021(3); the current proposed rules eliminate that requirement. Separation of recyclable material from solid waste is a tangible indication of recycling, providing inspectors an objective measure to determine compliance or the legal status of the collected material. The separation requirement as originally drafted would be indispensable in the practical enforcement of solid waste collection rules and statute.
 3. While subsections (3)(a), (3)(c), (3)(d), and (3)(e) set out largely observable requirements for the purpose of identifying material in the waste stream that is recyclable, (3)(b) fails to follow the intent of the rule and makes enforcement far more difficult. If the Department is unwilling to adopt the wording proposed in A.1. above or return the separation requirement as suggested in A.2. above, subsection (3) would benefit by **the elimination of the proposed WAC 173-350-021(3)(b)**.
- B. In addition, WAC 173-350-100 does not contain a definition for "separated" or "separation." Earlier versions of this rule did include a definition of "separated." "Source separation" is defined as "the separation of different kinds of solid waste at the place where the waste originates." Providing a definition for "separated" or "separation" would alleviate confusion. The commission supports the definition proposed in comments submitted by the WRRRA, except recommends the 5 percent by weight criterion should be changed to 5 percent by volume allowing investigators the ability to estimate non-recyclable contamination without the use of a scale. For this reason, the commission proposes including the following definition in the chapter:

"Separation" or "separated" means source separation into individual material streams to remove or separate recyclable materials from other non-recyclable solid waste, resulting in less than 5 percent by weight volume non-recyclable materials, for the purpose of reuse or recycling.

Thank you for the opportunity to comment on the proposed solid waste handling rules. Please contact Ann LaRue, Accounting Policy Specialist, at (360) 664-1245 or ann.larue@utc.wa.gov.

Sincerely,



Steven V. King
Executive Director and Secretary