



STATE OF WASHINGTON

UTILITIES AND TRANSPORTATION COMMISSION

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October 19, 2026

Washington State Department of Ecology
Solid Waste Management Program
Rulemaking Team, Chapters 173-350 and 351 WAC

RE: Comments of Utilities and Transportation Commission Staff on Proposed Amendments to Chapters 173-350 and 351 WAC – Solid Waste Facilities

Dear Rulemaking Team,

The Washington Utilities and Transportation Commission (UTC) staff (Staff) submits the following comments to align Ecology's facility definitions with the Commission's transportation classification and enforcement framework. The comments focus on the generator–transporter–facility model, front-end source separation controls, pattern-based evaluation and clearly stated thresholds that help all parties understand their obligations. These offered comments are the opinion of Staff, are not legal advice, and are not binding on the Commission.

1. The regulatory framework for solid waste and recycling

Staff views Washington's solid waste and recycling framework as having three regulatory points along the materials chain. Generators are governed by local jurisdictions through collection programs, permits, and ordinances. Transporters are regulated by the Commission under Chapter 81.77 RCW and Chapter 81.80 RCW. Receiving facilities are regulated by Ecology and jurisdictional health departments under Chapter 173-350 WAC. Each point depends on the others, and clear responsibilities at one point reinforce compliance at the next.

When each point functions as intended, the system reinforces itself: generators follow source separation requirements, transporters carry only properly source separated loads, and facilities receive only compliant loads, resulting in predictable recovery performance.

Current practice often works in the opposite direction. Some facilities accept contaminated or non-source separated loads, which creates incentives for transporters to haul those loads as

“recycling.” Generators may then assume that if a transporter hauls the material as recycling, it is acceptable to place it there. Each point relies on the next downstream as de facto evidence of compliance, allowing contamination to move through the system unchecked.

These comments aim to keep facility definitions consistent with the Commission’s oversight of transporters, including front-end source separation principles and pattern-based enforcement currently under consideration in Commission Docket TG-260161.

2. Material recovery facility recovery thresholds

Staff supports the proposed 75/25 threshold in the definition of “material recovery facility.” While the threshold may appear restrictive, it should be readily achievable when transporters deliver properly separated recyclable materials under front-end controls (two-bin rule, acceptance lists, container labeling, customer agreements, and driver rejection authority, etc.). As UTC Staff is considering stronger front-end source separation requirements in its own rulemaking, loads arriving at a material recovery facility should contain minimal solid waste, and facilities should rarely need to reject loads or approach the 25-percent residuals limit.

Staff acknowledge that some existing practices will need to change so that material recovery facilities operate as intended rather than as de facto transfer stations. Staff view that change as consistent with both agencies’ goals and the overall recycling framework of the state.

3. Measuring recovery over time rather than load by load

In evaluating transporter operations, the Commission generally examines a company’s operations, relying on documented patterns of non-compliance rather than classifying an entire operation based on a small number of non-compliant containers. This approach gives well-intentioned companies a margin for error while still identifying operations that are fundamentally out of compliance. Staff are considering reinforcing this principle in its current rulemaking.

Staff recommend that Ecology take a similar approach to material recovery thresholds. As drafted, the material recovery facility definition refers to accepting “only loads” meeting the 75-percent by volume threshold, which suggests a load-by-load test. Staff recommend measuring recovery and residual rates over a defined period (e.g., quarterly or semiannually) to reveal long-term patterns. This would allow legitimate operations to absorb an occasional contaminated load without jeopardizing facility classification, mirroring the Commission’s pattern-based framework for transporters.

Staff also notes two measurement inconsistencies between related definitions: the material recovery facility definition measures recovery by volume, while other facility definitions (e.g., transfer stations) measure in tons; and a phrase such as “in a calendar ...” appears to lack a time qualifier (e.g., calendar year or calendar quarter). Staff recommend Ecology use a single unit of measure and a single, clearly stated measurement period in both definitions, so a facility cannot meet one definition and fail the other based on the same material and timeframe. Staff are neutral as to the unit selected.

4. Facility classifications and transporter authority

Ecology's facility classifications directly affect how Staff recommends classification of the companies that transport material to those facilities. A company operating under the recycling exemption under WAC 480-70-11(2)(b) may transport source separated recyclable materials to a material recovery facility. It may not transport material to a transfer station or a salvaging operation, because the material received at those facilities is solid waste. Transporting to those destinations requires a solid waste certificate under Chapter 81.77 RCW, unless the company qualifies for an exemption other than the recycling exemption.

For this reason, the line between a material recovery facility and a transfer station matters to Staff. If a facility's recovery rate falls below the threshold and it is reclassified as a transfer station, recycling companies delivering to that facility may be operating outside their authority without realizing it. Clear, consistently measured thresholds (see Comment 3) help both facility operators and transporters understand where they stand.

Staff supports adding the concept of salvaging. Field observations indicate that much of the current commercial "recycling" more closely resembles salvaging than true source separated recycling, with materials recovered from mixed loads rather than collected separately at the source. Designating facilities specifically for salvaging gives these mixed-load operations a legitimate pathway between straight disposal and bona fide recycling. However, because salvaging involves removing materials from mixed waste streams, the material delivered to a salvaging operation is solid waste that may incidentally contain recyclables; under RCW 81.80.470, a carrier operating under the recycling exemption may not transport solid waste of this kind. Transporters serving salvaging operations would need a solid-waste certificate to continue those services.

Staff requests that Ecology note the connection between facility classification and transporter authority in guidance, so facility operators understand that incoming haulers may need Commission authority depending on the facility's classification and the material received.

If you have any questions about these comments please reach out to me directly at Mathew.perkinson@utc.wa.gov, or 360-701-1601.

Sincerely,

 Digitally signed by Perkinson,
Mathew (UTC)
Date: 2026.10.19 14:49:31
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Mathew Perkinson, Assistant Director
Washington Utilities and Transportation Commission, Transportation Safety Division

Automated tools were used to help review and analyze materials; findings and recommendations were developed and verified by staff.