

Seattle Public Utilities (McKenna Morrigan)

See attached letter for comments on behalf of Seattle Public Utilities on the Solid Waste Facilities rulemaking draft language.



October 19, 2026

Uploaded via Online Comment Form

Re: Chapter 173-350 WAC and Chapter 173-351 WAC – Solid Waste Facilities Rulemaking

Department of Ecology,

Thank you for the opportunity to submit informal comments for the draft solid waste facilities rulemaking.

Seattle Public Utilities (SPU) is aware that action is needed to address persistently low diversion rates at Puget Sound-area construction and demolition (C&D) facilities that are essentially operating as transfer stations but are presently permitted as MRFs. C&D MRFs have increased from only a few facilities to nearly 10 facilities in the Puget Sound area over the past 10-15 years. During that time, diversion rates achieved at these facilities have also fallen from around 60 percent on average across facilities, with several consistently diverting more than 80 percent, to an average now of less than 30 percent, with no single facility diverting more than 50 percent of incoming materials. This frustrates SPU's ability to support effective C&D recycling and also poses challenges to enforcement of our local flow control ordinance. We also believe the current situation is not consistent with the statutory intent of our state's solid waste laws.

For this reason, SPU supports the intent of proposed rule language under Chapter 173-350 WAC related to the definition and permit requirements of a "Material recovery facility" that require facilities operating under this definition to accept only recyclable materials and to meet a minimum recovery rate. Requiring MRFs to meet a quantitative recovery threshold will enable SPU to better enforce Seattle's municipal code and achieve its C&D waste diversion goals. Further, it has the potential impact of supporting higher-performing recycling facilities that will better serve the region's building industry.

At the same time, we have identified several areas in the draft rule language where we believe alternative wording is appropriate to achieve the intent, and we understand that additional details and clarification may be needed in the language to enable effective implementation of the rule update.

We offer additional comments in support of the intent of the proposed rule language in this letter, and provide detailed section-by-section comments on relevant language related to this priority issue, as well as technical comments on additional sections of the proposed rule, in the following pages.

Problem in Current Regulation

As mentioned above, diversion rates at regional C&D MRFs are at historic lows. There are several steps necessary to improve the C&D recycling system in the Puget Sound area, and SPU is already embarking on several local and regional initiatives to this end. However, based on discussions with our jurisdictional health department and with Ecology staff, we believe that changes to Chapter 173-350 WAC such as those being proposed in this rulemaking are also an essential part of that effort and we support the intent of the rulemaking to address this issue.

Under current rules, these facilities are taking in commingled C&D waste, including many materials that are non-recyclable in that they have no viable recycling markets and are not listed as designated recyclable materials in Seattle. These facilities are operating more like transfer stations than MRFs but being classified as a MRF enables them to receive material from any hauler, not only those with G certificates or operating under the authority of a municipality or in compliance with a local flow control ordinance. This means they can maximize the amount of material received with limited oversight, while sending a majority to disposal.

Additionally, the current lack of quantitative performance standards for MRFs in state regulations makes it difficult for the jurisdictional health departments that oversee these facilities' compliance to evaluate whether these facilities are, in fact, operating in a manner that is consistent with permit requirements.

Benefits of Proposed Changes

- **Enables Seattle and other jurisdictions to better enforce hauling regulations and flow control ordinances.** Currently, loads of mixed C&D waste leave Seattle under the guise of hauling recyclables, even when they contain primarily non-recyclable materials. These loads are routinely hauled by haulers not authorized to haul disposal-bound material in Seattle and are routinely accepted by Puget Sound-area C&D MRFs. Requiring MRFs to have more limited acceptance policies and higher recovery rates will require more jobsite separation of materials, which will result in loads of recyclable materials going to MRFs and loads of non-recyclable solid waste being hauled by authorized disposal haulers and going to designated disposal facilities consistent with local flow control ordinances.
- **Creates a level playing field.** SPU is moving towards more strongly enforcing source separation requirements at jobsites and more stringent acceptance policies at our local MRFs. The goal is to increase diversion of recyclable C&D materials as defined by municipal code and Seattle's recently updated Designated Recyclables List, and to direct non-recyclable waste towards disposal sites rather than to MRFs. Adopting rule language that is consistent with this intent would help to ensure that facilities outside of Seattle do not have an advantage over facilities in the city.
- **Supports a coordinated and comprehensive effort to increase diversion and improve recycling opportunities.** As mentioned above, Seattle intends to undertake supplementary efforts on outreach and enforcement for C&D source separation and MRF performance as do neighboring jurisdictions in the Puget Sound area. A coordinated effort with Ecology, UTC, and local jurisdictions can have a better more consistent impact and reduce the burden on any individual players. For instance, MRFs do not need to take on educating customers solely at the facility if agencies are working together to change outreach, rules, and enforcement across the construction phases and stakeholders.

We look forward to further discussion and engagement as this rulemaking moves forward.

Sincerely,



McKenna Morigan
Waste Prevention and Solid Waste Policy Advisor
Solid Waste Planning & Program Management Division
Seattle Public Utilities

WAC 173-351-100 – Definitions

- SPU supports the inclusion of and proposed definitions for “**Disposal site**”, “**Salvaging**”, and “**Solid waste handling**” in this chapter, which are consistent with Seattle’s current interpretation and municipal code definitions of these terms.
- SPU supports the inclusion of a definition for “**Flow control ordinance**”, but requests that the language be broadened beyond applicability to “trash haulers.” The U.S. EPA describes flow control as “legal provisions that allow state and local governments to designate the places where municipal solid waste (MSW) is taken for processing, treatment, or disposal.”
- SPU supports the inclusion and proposed definition of “**Municipal solid waste (MSW)**”, but we believe the definition needs another comma in the second sentence after “...specific waste stream” (highlighted below). The suggested comma appears in the proposed definition of “Residuals”, which uses the same language:

"Municipal solid waste (MSW)" means a subset of solid waste which includes but is not limited to unsegregated solid waste from residential, commercial, institutional and industrial sources, and community activities. Residuals as defined in this section are municipal solid waste that must be managed at a municipal solid waste handling facility, unless associated with a specific waste stream, such as construction and demolition waste, that a flow control ordinance authorizes to be managed elsewhere. When destined for disposal, solid wastes rendered unrecognizable by grinding, crushing, shredding, or other means are MSW.

WAC 173-351-140 – Other location restrictions

- It appears that there is a typo in the proposed language for this section (highlighted below):
(1)(a)(i) No landfill whose area at design capacity will exceed 100 acres and whose horizontal height at design capacity will average 100 feet or more above existing site elevations shall ~~not~~ be located over a sole source aquifer. This subsection applies only to wholly new landfill facilities, no part or unit of which has had construction commence before April 27, 1999.

WAC 173-351-700 – Permitting requirements

- It appears that the language in (2) is meant to be changed from “do not accept” to “did not accept”, consistent with similar changes above, such as in WAC 173-351-010.

WAC 173-350-100 – Definitions

- SPU supports the inclusion of and proposed wording for definitions of “**Disposal site**” and “**Construction and demolition waste (C&D waste)**”, and “**Flow control ordinance**”, which are consistent with Seattle’s current interpretation and municipal code definitions of these terms.

- As noted above, SPU supports the inclusion of a definition for “**Flow control ordinance**”, but requests that the language be broadened beyond applicability to “trash haulers.” The U.S. EPA describes flow control as “legal provisions that allow state and local governments to designate the places where municipal solid waste (MSW) is taken for processing, treatment, or disposal.”
- “**Commodity**”: We note that the definition of “commodity” includes a reference to ISRI, which has recently changed its organizational name to ReMA. Perhaps consider an update to reflect the name change here?
- “**Material recovery facility**”: SPU supports the general concept of establishing a definition for “material recovery facility” that requires such a facility to operate with the intent to accept recyclable materials only and to achieve at least a 75% recovery rate of accepted materials. However, we believe that this recovery rate should be measured and reported by weight, not by volume. Furthermore, we believe that this measurement should be evaluated at the overall facility level on a calendar year basis, not based on the composition of an individual load. Additionally, we believe that the definition should limit MRFs’ acceptance to “recyclable materials” only. While a facility will inevitably receive solid waste materials that are contaminants, a facility should only include on its acceptance list materials that are designated as “recyclable materials” by the local comprehensive solid waste plan in which the facility is operating.

To align with this intent, we recommend the following adjustments to the proposed definition:

"Material recovery facility" means any facility that receives, compacts, repackages, or sorts source-separated recyclable material for recycling or reuse and that accepts only loads that result in the recycling or reuse of 75% or more, by ~~volume~~ weight, of the solid waste received. A facility that actively accepts loads containing 25% or more, by volume, of solid waste for which there is no demonstrable or legitimate market or intent to recycle or reuse ~~materials that are not recyclable materials, or that results in the recycling or reuse of less than 75% of the solid waste received, by weight, in a calendar year~~ is not a material recovery facility.

- “**Recyclable materials**”: It appears that there is an unfinished clause in this definition. **SPU has questions about the intent of that clause and how it may be interpreted, and recommends against adjustment to the definition unless additional explanation is provided:**
"Recyclable materials" means those solid wastes that are separated for recycling or reuse, including, but not limited to, papers, metals, and glass, that are identified as recyclable material pursuant to a local comprehensive solid waste plan. Recyclable materials destined for disposal....."
- “**Residuals**”: The final clause in second sentence (highlighted) seems redundant and potentially concerning. If residuals are materials the result of processing recyclable materials or organics, then it is unclear how “non-recyclable solid wastes” are distinct from “physical contaminants removed from recovered materials”. **We would appreciate additional clarification from Ecology on the intent of that portion of the proposed definition.**

“Residuals” means wastes destined for disposal after processing solid waste through recycling, material recovery, organic materials pre-processing, organic materials management, reuse, salvaging, or other diversion from disposal. Residuals include but are not limited to physical contaminants removed from recovered materials, recyclable materials destined for disposal, and non-recyclable solid wastes. ...”

- **“Salvaging”**: SPU is uncertain about the intent of the highlighted language in the proposed definition, which differs from the definition of “salvaging” proposed under Chapter 173-351 WAC, and has some concerns about the potential range of interpretations:

“Salvaging” means the separation of solid waste to be recycled or reused from solid waste to be disposed at a facility that accepts loads containing more than 75% of waste received by weight that will be disposed, with the approval of the owner or operator, the jurisdictional health department, and for landfills, the department.

Perhaps intent was to clarify that salvaging is an activity only conducted at facilities intended and permitted to primarily receive disposal-bound material and not at facilities permitted to operate as MRFs, but the language is unclear.

Given that the term “salvaging” is only used in Chapter 173-350 WAC under the sections related to transfer stations and drop box facilities and limited purpose landfills, it seems that the additional language of this proposed definition is unnecessary. However, if the proposed definition of “salvaging” from Chapter 173-351-100 WAC is deemed insufficient for this chapter, we recommend that the definition used here either specify that the separation of recyclable materials at MRFs is not considered salvaging, or that salvaging is an activity that occurs only at transfer stations, drop box facilities, and limited purpose landfills.

- **“Transfer station”**: SPU supports the proposed definition of “Transfer station” with a minor change. For consistency with proposed language in other definitions and sections of the rule, we recommend that the term “by weight” be used as the reference for the unit of measurement for the purpose of determining material recovery:

“Transfer station” means a facility that receives solid waste (e.g., municipal solid waste, contaminated soil, or other solid wastes) from off site from persons or route collection vehicles onto a tip floor for consolidation into transfer vehicles, vessels, or containers for transport to a solid waste disposal facility. A facility conducting material recovery that results in the recovery of less than 75% of the solid waste received by weight in tons in a calendar year is a transfer station.

WAC 173-350-210 – Recycling and material recovery facilities

- SPU notes that the term used in (1)(b)(ix)(a) is inconsistent with the referenced section. While the term used in this section is “Materials pre-processing facilities subject to WAC 173-350-215”, the proposed term in the proposed new rule language reference is “Organic materials pre-processing facilities”. Removing the word “organic” in this reference would be significant and inconsistent with the draft rule language proposed under the relevant CR-102. Also, the proposed definitions of “Residuals” under this rulemaking in both WAC 173-350-100 and WAC 173-351-100 use the term “organic materials pre-processing”. We believe consistent term usage is appropriate here as well.