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From: Scott Cave, President
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Subject: Comments on Solid Waste Facilities Rulemaking, Chapter 173-350 WAC and Chapter 173-351 WAC

On behalf of Carole DeGrave and Friends of Rocky Top (*FORT*), I appreciate the opportunity to provide comment on the proposed rulemaking for Chapter 173-350 WAC and Chapter 173-351 WAC regarding Limited Purpose (LPL) and Municipal Solid Waste (MSW) landfills.

FORT are neighbors and concerned citizens seeking to protect the land, air, and water resources on Rocky Top and the surrounding Cowiche Canyon in Yakima County from further environmental degradation due to operations at DTG/Anderson LPL and associated facilities on Rocky Top. *FORT* is a CascadiaNOW! fiscally sponsored project: <https://www.cascadianow.org/friends-of-rocky-top>.

I. Background on the Yakima County WAC 173-350 experience

FORT's relevant experience and knowledge is from decades as neighbors to the multiple DTG Recycling/Anderson operations on Rocky Top in Yakima County, including a limited purpose landfill (LPL), petroleum contaminated soil (PCS) remediation site, demolition waste pits, material recovery facility (MRF), and surface mining operation. Yakima County is also home to the Caton Landfill, a similar privately-owned and operated unlined mixed waste LPL that for decades -- like the DTG/Anderson LPL -- accepted and disposed of C&D mixed waste and other industrial and special wastes from throughout the Pacific Northwest including Canada.

Since 2020, *FORT*, recreationalists, concerned citizens and Caton Landfill neighbors have directly engaged with Ecology and Yakima County permitting agencies (Yakima County Health District, Yakima County Public Services & Yakima Regional Clean Air Agency) to request information, raise concerns, file complaints, and comment on existing and proposed facility permits and related approvals, local solid waste planning updates and policies, and state solid waste rulemaking.

Most concerning for neighbors of these two Yakima County mixed-waste LPLs has been the limited local government resources dedicated to regulatory oversight and enforcement of LPL operating permits and conditions. Local and state agency budgets and resources are primarily dedicated to approving facility operating permits, with the working assumption that once permitted, operators can generally be trusted to comply, thereby little staff time or agency resources are budgeted for regulatory oversight, coordination and enforcement.

In recent years, huge volumes of gypsum-based byproduct from British Columbia, Canada, has been disposed at these two landfills, generating years of odor complaints, eventually prompting regulatory investigations that found air quality violations under the state Model Toxic Control Act (MTCA). Both LPLs are under Agreed Orders with Ecology for site investigation, remediation and fire control and extinguishment.

Why? Because Yakima County is the land of cheap disposal with few long-term liability costs, infrequent load inspection on entry, and historically weak local regulatory oversight and permit enforcement due to limited resources and staff. We would note that regulatory oversight has become more stringent recently largely in response to the challenges highlighted in the County's efforts to enforce permit conditions at these two problem LPLs.

According to Yakima County Commissioner Amanda McKinney - whose district includes the two LPLs and is Yakima County's representative on the Yakima Regional Clean Air Agency Board – explains why the public supports reducing agency regulation during the May 8, 2025 YRCAA Board meeting:

McKinney remarked the substantial reduction in federal funding for various programs is the result of the American public concluding the existing regulatory environment is excessive, adding the best method to reduce excessive regulation is to reduce the funding available for it.

The overlapping oversight by Ecology and the three local agencies responsible for LPL and MRF permitting, oversight and enforcement in Yakima County have limited resources, with some agencies unable to provide timely oversight and enforce permit conditions. For DTG and Caton neighbors, regulators failed to stop a so-named recycling company from flowing huge volumes of largely unregulated commingled C&D material to Rocky Top primarily for disposal, not recovery, which contributed to toxic odors and a MTCA landfill on fire that continues to threaten Rocky Top neighbor air and water quality.

The Caton Landfill

The Caton Landfill was first permitted in 1997 as a construction and demolition debris landfill. Yakima Health District (YHD) denied Caton's operating permit in 06-2023 and ordered the facility to cease operations by 06-30-2025. Caton appealed to the state Pollution Control Hearings Board (PCHB) which ruled in favor of YHD on 04-10-2025. Caton finally stopped accepting waste on 04-14-2026. Over years, Ecology staff observed disposal practices at Caton that may have resulted in the release of hazardous materials to the environment, and that waste was disposed on parcels that were never permitted for waste handling or disposal. In April 2026, Ecology negotiated an agreed order for a remedial investigation with Caton Landfill and Recycling, LLC. The Agreed Order between Ecology and Caton family members and facility manager, outlines the MTCA process and schedule for site cleanup, including delineation and characterization of subsurface fire and hazardous compounds originating in the waste: <https://apps.ecology.wa.gov/cleanupsearch/site/11536>.

DTG/Anderson Rocky Top background

DTG Recycling's disposal and operations resulted in horrendous gases in 2020 and 2021, prompting odor complaints and site investigation that detected volatile organic compounds (VOCs) benzene and naphthalene in ambient air at concentrations 40-50 times higher than the US EPA's default concentrations for MSW landfills (USEPA, AP-42, Section 2.4, October, 2008), exceeding outdoor air quality standards under the state Model Toxics Control Act (MTCA). In short, the DTG/Anderson LPL Cell 1/Phase 1 is a MTCA site investigation with a subsurface fire, Facility Site ID: 79747294: <https://apps.ecology.wa.gov/cleanupsearch/site/11537#site-documents>.

To date the fire investigation has required installation of 30+ landfill gas probes and 7 thermistors to generate data on the extent and status of the subsurface fire. The fire remains smoldering and continues to pause the MTCA investigation and cleanup process, requiring an Interim Action Work Plan. The company's fire consultants project the landfill fire will drop below the extinguishment target temperature of 180° F degrees sometime next winter (2027-2028). Neighbors remain hopeful, but recognize previous fire extinguishment projections were proven more optimistic than realistic.

It's relevant to point out that the YRCAA allowed the DTG/Anderson unlined LPL (Cell 1) and unlined PCS remediation site to operate for decades without securing a required Order of Approval (OA) for facility air emissions. A YRCAA OA is specifically required in the facility land use and solid waste operating permits for both of these operations. When this egregious public failure was revealed to the YRCAA during Cell 2 permitting, current staff and Board members offered no explanation, no apologies, never admitted wrong-doing, and as far as we know, has never held anyone accountable. It's hard to overstate our disappointment in local regulatory agency's slow response to the toxic odor complaints. While they eventually led to MTCA determinations and agreed orders, the facilities were operating without required air emission permits, resulting in limited oversight and enforcement.

Importantly, DTG has not submitted an application or received approvals to construct Cell 3/Phase 3 due to slow progress in its efforts to extinguish the Cell 1/Phase 1 MTCA site subsurface fire(s), necessary for agency approval to move forward with an interim remedial action work plan and Cell 3/Phase 3 permit submission and agency approvals. The landfill fire persists, in part because of how the landfill was constructed. According to DTG's landfill gas experts who evaluated the landfill fire:

"In reviewing the Parametrix data set, LFCI notes that oxygen levels in all of the sampling locations were above 20%, indicating that substantive air intrusion into the landfill was occurring."

"It is apparent that due to steep side slopes and poor (air pervious) soil cover, conditions at the DTG site were ideal for spontaneous combustion to develop."

The combination of poor daily cover and waste compaction, lax regulatory oversight, and aggressive disposal allowed the company to create steep side slopes (between 2.0H:1.0V & 1.42H:1.0V) with a pyramid shape, rising above its original permitted elevation. During this period, DTG ramped up disposal 300% and with poor compaction, created ideal conditions for landfill fire production. Importantly, because of an approved 50 ft property setback, DTG has had to purchase 15 acres from an adjacent neighbor to apply a soil layer on the landfill to reduce slope steepness so heavy equipment could safely operate in order to help smother the fire, and install additional groundwater monitoring wells. This facility should not have been approved at this location without additional environmental investigation during LPL permitting, appropriate setbacks and environmental controls and monitoring systems. Those decisions made 20-30 years ago assumed a C&D LPL would be largely inert, pose little risk, and didn't require standard environmental controls (no liner and leachate collection system) or monitoring (only 2 monitoring wells). Coupled with a 50 ft property setback, steep side slopes, loose waste compaction, and operating without a required air emissions permit, facility regulators carry some blame for the DTG/Anderson mixed waste LPL MTCA sites under investigation in Yakima County.

We are hopeful once the jurisdictional health districts and Ecology establish their implementation protocols for HB 1154, regulators will have a more effective toolkit for gaining compliance from solid waste handlers.

In addition to gas, DTG's LPL fire is generating liquids (leachate) which pose an on-going threat to groundwater, the drinking supply for neighbors, most who live downgradient of the multiple unlined Rocky Top suspect contamination sources: LPL, petroleum contaminated soil remediation site, and historic demolition waste pits (near the intersection of Summitview Way and Rocky Top Road).

Not surprisingly, DTG's groundwater monitoring wells have detected landfill contaminants, prompting regulators to require installation of additional monitoring wells. Data collected to date confirms the presence of elevated concentrations of perfluorooctanoic acid (PFOA), a PFAS compound, and nitrate in DTG's monitoring wells downgradient of the unlined Cell1/Phase 1. Neighbor drinking wells have been sampled once and found PFAS compounds at concerning levels. Groundwater monitoring data

will continue to be evaluated to determine what additional steps are needed to define the nature and extent of groundwater impacts.

DTG is also finalizing a PCS site remediation and closure plan, and has begun sampling the soil under previously removed contaminated piles that were allowed to sit un-remediated at the PCS site for about 3 years as the company tried but failed to secure operating permits. Eventually, they were given a timeline to remediate and dispose of the piles; most of the remediated piles qualified for disposal in Cell 2/Phase 2; the rest was transferred to Waste Management, Greater Wenatchee Regional Landfill for disposal.

An aerial survey was recently flown to evaluate Cell 1/Phase 1 (MTCA site) settlement, and the remaining air space in the current operating Cell 2/Phase 2. From the daily volumes of waste observed by neighbors, current cell height and width, it appears to be filling up fast and could reach capacity by mid-2027, depending on daily flow between now and closure.

In 2025 DTG's LPL disposed of 370,000+ cy of largely unregulated C&D waste from Canada (*where gypsum landfilling is restricted and comparatively expensive*). In 2026, DTG's disposal of Canadian loads of gypsum-based by-product waste continue, generating weekly neighbor fugitive dust and odor complaints. Neighbor Brenda Yost routinely sends email messages to DTG regulators, sometimes with photo evidence from a Rocky Top trail. The photo below, taken in late September, 2026, shows 3 semi-trucks, 2 of which are identifiable as Canadian trucks, dumping their loads. The container shown tipping most likely contains gypsum by-product waste, which we believe contributes to the chronic foul smelling odors that Brenda often reports to regulators (See email from October 7, 2026 below).



Good morning,
My weekly plus report;
Sunday - Tuesday (9/27/26-10/6/26) a musty chemical odor was noted coming from DTG landfill on the properties of the city of Yakima and Cowiche Canyon Conservatory trails in the mornings. Occasionally a mask needed to be worn.
Thank you to those of you who are conscientious about your work involving the health of Yakima County residents and the environment.
Brenda

Take away from Yakima County's WAC 173-350 experience

1) Not all LPLs are created equal

According to Ecology's solid waste program's data base, there are 15-16 permitted and operating LPLs in our state, with the majority a monofil for non-hazardous industrial waste material that is provided in a consistency that readily compacts, reducing air intrusion. These monofils often receive specific waste only and at known or predicted rates/volumes, and are limited in size/capacity. The underlying LPL policy and statutory assumptions seem to support monofil LPLs rather than facilities that accept mixed construction and demolition material containing both inert and non-inert waste. All of this suggests less risk for generating methane or other harmful gases compared to MSW landfills. Therefore, LPLs were seen as presenting less risk to human health and the environment, and less likely to generate toxic odors or groundwater contamination.

2) Mixed waste LPLs pose greater risk to the environment than presumed

Review of the public record of neighbor odor, fugitive dust, litter and other complaints filed with facility regulators reveal impactful nuisance violations. The DTG & Caton mixed waste LPLs have no restrictions on origin of waste and tend to operate more like regional MSW facilities. The designations of Caton and DTG LPLs as State MTCA investigation and cleanup sites confirm they pose much greater risk to the environment and human health than previously assumed.

3) Uneven regulatory oversight and enforcement

Our state regulatory framework for LPLs seems to rest on the working assumption that a permitted facility intends to operate in compliance with state regulations and permit conditions. While that is likely the case for many operators, what happens when an operator shows a pattern of non-compliance and faces little enforcement or penalty for this behavior over years? In Yakima, they were ignored, warned some, and then became MTCA cleanup sites and now face years of investigation, remediation and likely mitigation. While Caton is closed, DTG continues for now, burying tons of Canadian waste daily. State and local regulatory oversight and operating permit conditions continue to incentivize Canadians to long haul gypsum-based by-product waste 600+ miles roundtrip with an empty backhaul for cheap disposal in Yakima County.

II. Comment on Definitions

We appreciate Ecology's effort to clarify solid waste definitions and rules for solid waste facilities, residual waste and material recovery facilities (MRFs) to improve recovery of construction and demolition material and reduce the generation and flow of commingled C&D waste for landfilling. We offer the following comments on select definitions:

"Facility" or "site" means all contiguous land, and structures (including setbacks), other appurtenances, and activities on the land associated with solid waste handling.

page 15

"Setback" means that part of a facility that lies between the active area and the property boundary.

page 265

Comment: Including 'setbacks' in the definition of a *facility* may include adjacent properties with incongruent zoning and environmental setbacks. Specifically, the setback that no landfill's active area may be located closer than 1,000 feet to an existing water supply well by definition, must include additional onsite or adjacent property. We would suggest the following rewrite for the definition of facility:

"Facility" or "site" means all contiguous land, structures, appurtenances, and activities (including setbacks) associated with solid waste handling.

Adding setbacks to the definition of a facility assumes all of the setback will be within the permittee's property boundaries, when in practice, facility setbacks can include adjacent property, including those zoned residential.

No landfill's "active area", as defined in this chapter, may be within 100 feet of the facility property line for adjacent land zoned as nonresidential or unzoned lands, or closer than 250 feet to the facility property line of adjacent land zoned as residential, existing at the time for the area approved under a solid waste handling permit.

No landfill's active area may be within 1,000 feet to any state or national park.

page 354

Comment: Under this definition, an LPL's active area is allowed to be 250 ft from a residential property, which could conflict with the LPL 1,000 ft supply well setback as described in the comment above. We wonder why residential property is not afforded the same property line setback as state and national parks. Residents who live next to landfills are there 24/7, whereas park visitors are infrequent and not subject to continual noise, odor, dust nuisances like those who reside next to mixed waste LPLs.

"Flow control ordinance" means a local law that requires trash haulers to take solid waste in their jurisdiction to a designated facility for processing or disposal.

page 16

Comment: Why is the term trash hauler left undefined here, and only found in the definition of flow control? Also, it might clarify the definition more to say "a local law that requires *solid waste handlers who haul waste* to take solid waste generated in their jurisdiction..."

"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 of the solid waste received. A facility that 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 is not a material recovery facility.

Page 256

Comment: The proposed definition requires MRFs to recover or recycle at least 75% of incoming loads; that seems like a high-bar given current recovery rates, and begs a few questions: Would we want facilities to deny 60%/40% loads that may end up landfilled? It seems challenging to expect this ratio initially, given the existing C&D waste collection & transfer system which emphasizes all-in-one commingled loads. According to Seattle Public Utilities Mixed C&D Facility Diversion Rates by Year and Quarter for 2025, only in one quarter did a single facility achieve a 75% or better threshold.

The threshold also raises questions about how it would be implemented across jurisdictions, given the myriad of local solid waste facility permit conditions and regulations with varying resources that constrain oversight and implementation.

How will the threshold be determined and verified? How will the ratio be enforced/applied in practice? Will permit jurisdictions audit facility inbound and outbound loads and disposal to determine facility compliance with the ratio? The language suggests the 75/25 ratio would be applied to each load, so no loads under the ratio, only those at least 75%. Is that reasonable? Will failure to meet the threshold (over quarters/years) result in the facility losing its permit, or would it change into a transfer station?

If we expect facilities to recover more material, we need to work with them on how to incentivize material management on the front end of C&D material waste collection in order to increase generation of recoverable material to transfer to a MRF for further source separation and recovery. Encouraging greater adherence to the 2-bin rule may be a more effective way to encourage recycling and reduce volumes going to landfills, at least for the time being. While we certainly agree this level of C&D recovery is possible, we're concerned that the 75%/25% threshold will not be achievable for most facilities without added flexibility, and additional incentives or allowances. We would note that this system relies on the assumption (not enforcement of) the 2-bin rule to ensure MSW is not commingled with source separated C&D material destined for recovery, at all construction sites. There is no funding for local jurisdictions that permit, investigate solid waste permitting and land use codes to add enforcement of the 2-bin rule. Instead, like waste acceptance at Caton and DTG/Anderson, it relies on the honor system assumption. The lack of oversight and enforcement incentivized C&D waste commingling and pulverizing/grinding for more efficient long-haul transfer to a disposal facility, primarily two LPLs in Yakima.

The solution may be to work with the building trades and permitting agencies on how to incentivize and coordinate on implementing local agency 2-bin rule oversight and enforcement for construction sites in their respective jurisdictions in order to increase C&D material diverted for recovery.

We support pausing on a MRF threshold ratio until the agency can engage MRF facility operators, construction and demolition waste leaders and related interested parties on the challenges and logistics of implementing a MRF threshold across varying jurisdictions. Focus should be on options to incentivize C&D material sorting and recovery, on job sites and at MRFs, to determine an appropriate recovery/disposal ratio for MRFs.

"Limited purpose landfill" means a landfill that receives solid waste of limited types of a known and consistent composition. A limited purpose landfill receives or has received only solid wastes designated as nonhazardous and is not municipal solid wastes. Limited purpose landfills include,

but are not limited to, landfills that receive or have received segregated industrial solid waste, construction, and demolition waste, wood waste, ash (other than special incinerator ash), contaminated soil and contaminated dredged material. Limited purpose landfills do not include inert waste landfills, municipal solid waste landfills regulated under chapter 173-351 WAC, Criteria for municipal solid waste landfills, landfills disposing of special incinerator ash regulated under chapter 173-306 WAC, Special incinerator ash management standards, landfills regulated under chapter 173-303 WAC, Dangerous waste regulations, or chemical waste landfills used for the disposal of polychlorinated biphenyls (PCBs) regulated under Title 40 C.F.R. Part 761, Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions.

Page 254

Comment: We support the proposed elimination of *land clearing debris* from disposal in LPLs. We have consistently supported diversion of organic material, food waste, paper, and yard trimmings from LPL disposal. It adds an important feedstock for methane and hydrogen sulfide gas generation. The broad allowance of ‘green waste’ during DTG’s early days on Rocky Top contributed to the generation of landfill gases and odor complaints that eventually led to ambient air and soil gas sampling that confirmed toxic emissions and designation as a MTCA site in Sept/October 2022.

The west half of Yakima County is a WSDA apple maggot (AM) quarantine area that restricts the movement of green waste and soil (potential AM host habit) to facilities in non-quarantined AM areas, including the permitted compost facility in south Yakima County. There is no public or private permitted organic recycling facility in north Yakima County. As a result, we believe the County felt obligated to allow ‘green waste’ disposal at DTG’s LPL. This waste added to a steady flow of Canadian gypsum by-product waste, often ground, generated hydrogen sulfide gas from the landfill, which is more flammable and harmful to human health than methane, and hundreds of odor complaints on Rocky Top. Yet during these years of eye watering emissions, headaches, nausea and coughing that forced DTG neighbors indoors, the LPL quarterly methane monitoring reported no concerning emissions. The landfill was emitting toxic fumes and with a subsurface fire.

Eliminating organic waste, including land-clearing debris, from disposal at LPLs is consistent with the state Organics Management legislation and Yakima County compost procurement ordinance (CPO) to flow organic material from disposal to composting.

"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.

Page 258

Comment: The definition mentions jurisdictional flow control by ordinance, but doesn’t mention individual municipal agreements with solid waste hauling companies that authorize flow of materials. Regarding the allowance for C&D material to “be managed elsewhere, how does this ensure that the residuals from a MRF that are “managed elsewhere” end up being disposed of at an MSW landfill and not an LPL or other location? We greatly appreciate and support the final sentence acknowledging that solid waste (including at MRFs) that are ground for long-haul are MSW, and therefore must be disposed of in an MSW landfill.

“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. Residuals 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.

Page 264

Comment: We agree—MRF residuals are MSW, and required to be disposed of at an MSW facility, even when material is flowed per ordinance or contractual agreement for processing elsewhere. To allow residuals to be disposed of in LPLs is contrary to the definition of residuals. We are concerned the above definition allows county flow control ordinances to magically change C&D residuals into something that is not MSW for convenient disposal? Solid waste flow control ordinances and agreements should support the provisions of the Recycling Reform Act to increase MRF oversight and transparency and ensure residuals are disposed of in MSW landfills, not diverted to LPLs.

III. Comments on WAC 173-350 proposed changes

We applaud the update to LPL operational, design, closure and monitoring requirements that recognizes the increased health and environmental risk posed by multi-purpose LPLs. Given our experiences in Yakima County we support the following proposed changes to WAC 173-350:

1. A description of how operators will place waste so that side slopes do not exceed 33 percent (3H:1V) to prevent and respond to fires, allow placement of cover material, and ensure final side slopes will meet closure requirements.
2. No surface impoundment or tank for landfill leachate may be located closer than 1,000 feet to an existing water supply well.
3. No landfill’s active area, as defined in this chapter, may be within 100 feet of the facility property line for adjacent land zoned as nonresidential or unzoned lands, or closer than 250 feet to the facility property line of adjacent land zoned as residential.
4. Limited purpose landfills must be designed to provide a setback of at least 100 feet between the active area and the property boundary.
5. Installing perimeter gas monitoring wells in soil adjacent to where waste is placed to ensure early detection of migrating landfill gas or compromised liner.