

WAC 173-350-021 Determination of solid waste. (1) **Determination of solid waste - Applicability.** This section must be applied when determining whether a material is a solid waste as defined in WAC 173-350-100. Some waste materials already have criteria for use, or standards to no longer be considered solid waste, in other sections of this rule. This section may not be applied to the following materials:

(a) Contaminated soil and contaminated dredged materials defined in WAC 173-350-100;

(b) Composted materials regulated under WAC 173-350-220; and

(c) Digestate regulated under WAC 173-350-250.

(2) **A material is a solid waste if it meets any of the criteria in (a) through (f) of this subsection:**

(a) The material has been discarded, abandoned, or disposed of;

(b) The material has been permanently placed in or on land for the purpose of disposal;

(c) The material has been collected through residential or commercial solid waste or recyclable material collection;

(d) The material has been received at a solid waste handling facility for recycling, incineration, disposal, or beneficial use as those terms are defined in WAC 173-350-100;

(e) The generator has paid for or will need to pay for removal or processing of the material for recycling, incineration, disposal, or beneficial use as those terms are defined in WAC 173-350-100; or

(f) The material has been stockpiled for recycling, reuse, or use after recycling, but no market is available and stockpiles provide vector attraction or harborage, or release pollutants into the environment in violation of other human health or environmental rules and regulations.

(3) **A material that met any of the criteria in subsection (2) of this section is no longer a solid waste if it meets all of the criteria in (a) through (f) of this subsection:**

(a) The material is no longer discarded or abandoned;

(b) The material has been separated from solid wastes;

(c) The material has been recycled, or is ready for reuse, as defined in WAC 173-350-100;

(d) The material has positive market value, as indicated by established markets for the material. Paying a person to remove or process the material for recycling, disposal, or incineration is not positive market value, nor is paying a discounted amount for removal or processing;

(e) The material is stored and managed to preserve its value, and is stored in a manner that presents little or no risk to human health and the environment; and

(f) The material does not contain harmful chemical, physical, biological, or radiological substances that will pose a threat to human health or the environment for its intended or likely manner of use.

(4) If a material does not meet all of the criteria of subsection (3) of this section, the person in possession of the material is still considered to be handling solid waste and is required to obtain a permit from the jurisdictional health department, or meet the requirements of a conditional permit exemption under the applicable section(s) of this chapter, or manage the material in accordance with the provisions of WAC 173-350-200 Beneficial use permit exemptions. In an action to enforce the requirements of this chapter, the generator or person in possession of the material must demonstrate that the material is no longer a solid waste.

(5) Nothing in this chapter shall impact the rights of a commercial recycler, nonprofit, or commercial generator under RCW 70.95.903, 81.77.140, 36.58.160, and 35.21.158.

[Statutory Authority: Chapter 70.95 RCW, and RCW 70.95.060, 70.95.215, 70.95.218, 70.95.260(6), 70.95.300, 70.95.305, 70.95.310, 70.95.440. WSR 18-17-008 (Order 13-08), § 173-350-021, filed 8/1/18, effective 9/1/18.]