



City of Seattle

Seattle Public Utilities

Ray Hoffman, Acting Director

January 7, 2010

Re: Docket TG-080591

To Whom It May Concern:

The UTC's attempt under Docket TG-080591 to better define when a company engaging in for-hire transportation of construction and demolition debris (C&D) is not required to have a solid waste collection certification faces a difficult challenge. The draft Rule proposes to resolve the contentious problem of whether or not commingled loads of mixed C&D are in fact "recyclable" by focusing on the permitting status and level of recovery of the processing facility that receives them. It reiterates that regulation under RCW 81.77.010 (8) does not apply to the hauling of C&D recycling loads to a permit exempt source-separated processing facility which we certainly support. It then proposes that non-certificated for-hire haulers can deliver mixed C&D loads with more than 10% non-recyclable material to a permitted processing facility which is achieving at least a 75% recovery rate for C&D materials. While this new proposal may seem an attractive compromise it is inappropriate to tie hauler certification status to material recovery facility recovery levels and standards not specified in WAC 173-350 or any other State rulemaking process.

Areas of Concern - Basing Certificated Hauling Determination on the Level of Recovery Achieved by Receiving Material Recovery Facility

The City of Seattle's current definition of "City's Waste" means "all residential and nonresidential solid waste generated within the City, excluding Unacceptable Waste, Special Waste and materials destined for recycling or beneficial use, which materials shall contain **no** more than 10% non-recyclable or non-beneficially used material, by volume". Most local jurisdictions have adopted this 10% standard for hauling which fits the standard for categorically exempt source-separated recycling facilities. We encourage the WUTC to adopt the 10% standard which is more reflective of Department of Ecology rules and local government standards and practices. The more consistent the WUTC, DOE and local government standards are, the easier it will be for us to cooperatively enforce these regulations.

The Draft UTC Rule under Docket TG-080591 could be interpreted to allow any amount of non-recyclable and non-beneficially used C&D in a load when hauled to a permitted material recovery facility which is achieving a 75% recovery level. This is problematic because processing facilities for mixed C&D will likely receive a wide variety of loads, ranging from mostly waste to almost all recyclable materials. As long as there were enough pure recycling loads received by the facility to reach the 75% recovery threshold, any non-certificated hauler could haul any mixture of C&D to the facility. The fact is

that hauling is one thing and processing efficiency is another. The Commission should stick to its statutory role of regulating the hauling based on what is being hauled. There are a number of ways to measure processing facility recovery rates and that should be best specified and monitored by the Washington State Department of Ecology or local Health Departments or solid waste agencies.

The proposed 75% recovery rate for a permitted MRF receiving C&D material for processing may be found to be a very acceptable level of recovery for the MRF if “alternative daily cover” and “industrial waste stabilizer” end markets are not counted as “recycling” or “beneficial use” and if the incoming source material is not curbside recyclables or organics where a 90 – 95% recovery level is readily achievable. However, that should be recognized through another type of rulemaking process focused on facilities as possibly the Washington State Department of Ecology’s revision process of WAC 173-350 or a local government “certification program” for specifically C&D processing facilities.

Areas of Agreement – Classification of End Markets

We **agree** with the UTC that neither “alternative daily cover” nor “industrial waste stabilizer” should be accepted as “recycling” or “beneficial use” end markets. Seattle adopted its own Administrative Rule in 2007 which defines “What Constitutes Beneficial Use for Construction and Demolition Waste Hauling”. Clean wood waste to boiler fuel is categorized as a “beneficial use” separate from recycling while end uses as “alternative daily cover” and “industrial waste stabilizer” are classified as disposal.

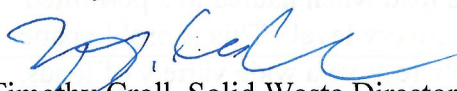
Methodology of Determining Facility Recovery Rates

We have recommended against the WUTC basing their hauling regulations on receiving facility performance. The following comment would apply if the WUTC still takes that approach despite our recommendation.

The draft WUTC Rule makes reference to the Commission receiving annual reports from C&D processing facilities to determine if they are meeting a 75% recycling or diversion standard. A bit more detail here would be welcome since local governments, including Seattle, will be establishing facility “certification” programs so generators will know their construction and demolition materials are being recycled and/or beneficially used. Facility performance can vary greatly depending on end markets and the types of loads being processed. A quarterly evaluation of facility recovery rates might provide a more accurate picture if the UTC chooses to pursue this.

Thank you for the opportunity to comment on this draft Rule.

Sincerely,


Timothy Croll, Solid Waste Director
Seattle Public Utilities