

Handed to Staff at
Open Mtg of 6-26-08

TG-0800914 – Alternative Daily Cover

Staff have recommended rejection of this item for the following reasons:

WAC 480-70-016 is interpreted as defining alternative daily cover as a commodity not solid waste,

And

Adding this definition to the Company Tariff is not legal under the current G-certificate.

I believe that Staff have incorrectly interpreted WAC 480-70-016 and that addition of this definition to the Company Tariff is required in order for the company to comply with regulatory guidelines.

The underlying issue is enforcement, the company maintains that illegal haulers are hauling garbage under the guise of recycling.

Given identical scenarios, the Company collects the exact same material, takes the material to the same transfer station, and the material ends up in the same landfill.

Under the Whatcom County Solid Waste Plan, Department of Ecology Rules and Department of Revenue Rules, this material is defined as solid waste therefore subject to County and State solid waste taxes and reporting to Ecology as garbage. Under WUTC staff interpretation this material is recycling, not subject to taxes and regulated as affiliated commercial recycling. This conflict needs to be resolved so that the company does not incorrectly classify activities and bill or apply taxes to customers in violation of the approved tariff or rules from other agencies. Therefore a definition must be added to the Tariff in compliance with the Whatcom County Solid Waste Plan.

Furthermore Staff have incorrectly interpreted WAC 480-70-016

It is fairly obvious the intent of the WAC was to allow landfills to do as they have always done. Purchase a commodity – soil; and to have that commodity hauled by any regular haulers of soil. The WAC also determines that if soil is to be disposed of, then it is garbage.

To simplify: That when a material crosses the gate into a landfill, the inherent qualities of that material do not change. A commodity stays a commodity and garbage stays garbage. But also, this rule specifically states soil, not soil like materials or alternative to soil materials. The purpose of this rule was solely to allow landfills to purchase soil and have it hauled by a common carrier instead of a solid waste carrier as defined in WAC 480-70-011 (3) referring to “commercially salable earth”

Staff have interpreted the WAC beyond the original purpose and created a situation where a landfill now becomes a recycling facility and the use of a material at the final destination is extrapolated backwards all the way to the point of origin.

Soil is a commodity with inherent market characteristics, positive value, multiple reuses and destinations. These characteristics exist prior to entering the landfill and do not change afterwards. Soil may become garbage when entering a landfill with a negative value with intent to dispose and one could assume, no other possible destination.

Ground Construction waste also has inherent characteristics defining it as solid waste. Negative value, no reuse, by definition solid waste that cannot be handled or placed on the ground without environmental controls and is not destined for any place other than a permitted transfer station or landfill. How the material is processed prior to placement in the landfill or how it is placed does not change the inherent character of the material or equate it to being soil.

Just as placement of cover soil in a landfill does not change the commodity aspects of commercially salable soil, placement as cover in a landfill does not change the solid waste aspects of ground construction waste.

Another example would be a failed septic drain field. The contaminated gravel is defined as solid waste, must be hauled as solid waste to a landfill, if the landfill uses the gravel as daily cover, that does not transform the gravel hauling into recycling.

So today, the Commission needs to approve this filing so that Point Recycling can comply with the Whatcom County Solid Waste Plan in regards to definition of recycling; needs to clarify the intent and purpose of WAC 480-70-016 and instruct staff to re-investigate these illegal haulers.