

**RULES
RELATING
TO
SOLID WASTE
COLLECTION
COMPANIES**

Discussion Draft

All Material Contained in This Draft Is
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SECTION 1 - GENERAL ADMINISTRATIVE RULES

NEW SECTION

WAC 480-70-001 Purpose. The legislature has declared that operating as a solid waste collection company in the state of Washington is a business affected with a public interest and that such companies should be regulated. The purpose of these rules is to administer and enforce Chapter 81.77 RCW by establishing standards for:

- Public safety;
- Fair practices;
- Just and reasonable charges;
- Nondiscriminatory application of rates;
- Adequate and dependable service;
- Consumer protection; and
- Compliance with statutes, rules and commission orders.

NEW SECTION

WAC 480-70-006 Application. (1) Except for those operations described in WAC 480-70-011, these These rules apply to any solid waste collection company in the business of collecting and transporting solid waste from points in the state of Washington, for compensation, over the public highways. ~~, except these rules do not apply to:~~

~~—— (a) The operations of a company under contract for solid waste collection service with a city or town (refer to RCW 81.77.020);~~

~~—— (b) The operations of a city or town that itself provides solid waste collection service (refer to RCW 81.77.020);~~

~~—— (c) The operations of a company under contract with any county, city or town for the collection or transportation of source separated recyclable materials from residences (refer to RCW 81.77.130);~~

~~—— (d) The operations of any city or town which itself provides collection and transportation of source separated recyclable materials from residences (refer to RCW 81.77.130);~~

~~—— (e) The operations of a recycling company or nonprofit entity collecting and transporting recyclable materials from a buy-back center, drop-box, or from a commercial or industrial generator of recyclable materials, or under agreement with a solid waste collection company (refer to RCW 81.77.140); or~~

~~—— (f) The operations of a commercial or industrial generator of commercial recyclable materials in selling, conveying, or arranging for transportation of recyclable materials to a recycler for reuse or reclamation (refer to RCW 81.77.140).~~

(2) A company in the business of collecting and transporting solid waste from points in the state of Washington is not exempt from state commission regulation under the provisions of:

a. The Interstate Commerce Act. ~~(commission~~ Commission regulation of solid waste collection companies includes regulation of the collection and transportation of solid waste

between points in the state of Washington and from points in the state of Washington to out-of-state disposal locations); and

b. The Federal Aviation Administration Authorization Act (FAAAA) of 1995 ~~1994~~. ~~(the~~ The FAAAA preempted state regulation of rates, routes and services of *property* carriers, but did not affect state regulation of solid waste collection companies).

NEW SECTION

WAC 480-70-011 Exempt operations. (1) The following collection and hauling operations are not regulated by the commission ~~as solid waste~~:

(a) The operations of a company under contract for solid waste collection service with a city or town (refer to RCW 81.77.020);

(b) The operations of a city or town that itself provides solid waste collection service (refer to RCW 81.77.020);

(c) The operations of a company under contract with any county, city or town for the collection or transportation of source separated recyclable materials from residences (refer to RCW 81.77.130);

(d) The operations of any city or town which itself provides collection and transportation of source separated recyclable materials from residences (refer to RCW 81.77.130);

(e) The operations of a recycling company or nonprofit entity collecting and transporting recyclable materials from a buy-back center, drop-box, or from a commercial or industrial generator of recyclable materials when those recyclable materials are being transported for use other than landfill disposal or incineration, or under agreement with a solid waste collection company (refer to RCW 81.77.140); or

(f) The operations of a commercial or industrial generator of commercial recyclable materials in selling, conveying, or arranging for transportation of recyclable materials to a recycler for reuse or reclamation (refer to RCW 81.77.140).

(g) The operations of private ~~Private~~ carriers who, in their own vehicles, transport solid waste purely as an incidental adjunct to some other established private business owned or operated by them in good faith. This private carrier exemption does not include persons transporting solid waste from residential sources, such as apartment houses or mobile home parks, in vehicles designed or used primarily for the transport of solid waste.

(h) The operations of carriers ~~Carriers~~ using special equipment, ~~such as septic tank pumps,~~ to transport sewage or cesspool wastes as an incidental part of a septic tank or cesspool cleaning service.

(i) The operations of carriers transporting loads either from a transfer station to a disposal site or between disposal sites are exempt from regulation by the commission under the provisions of RCW 36.58.050.

(2) The following collection and hauling operations are not regulated by the commission as solid waste:

(a) The operations of carriers operating under a permit issued by the commission under chapter 81.80 RCW (motor freight) who occasionally transport to a disposal site, but whose

primary business is not the collection of solid waste. This exemption does not apply if the carrier holds itself out to the public as a transporter of solid waste.

~~_____ (a) Is conducted under a permit issued by the commission under Chapter 81.80 RCW; and~~

~~_____ (b) Is not the collection of solid waste.~~

~~_____ For example: Examples of this type of operation include:~~

~~(i) A dump truck operator, who as a part of an excavation project performing dump truck operations in conjunction with building or construction projects, hauls an occasional load to a disposal site; or~~

~~(ii) A household goods carrier who transports to a disposal site the used packing materials from a shipment of household goods that the carrier transported.~~

~~(b) Carriers collecting or transporting recyclable materials from a drop-box or recycling buy-back center, or collecting or transporting recyclable materials by or on behalf of a commercial or industrial generator of recyclable materials to a recycler for use or reclamation. This type of operation is regulated under chapter 81.80 RCW as transportation of general commodities. For example: A carrier who transports construction, demolition or land clearing debris (CDL) from a commercial or industrial generator to a recycler for use or reclamation.~~

~~(5) Carriers transporting loads either from a transfer station to a disposal site or between disposal sites are exempt from regulation by the commission under the provisions of RCW 36.58.050.~~

~~(6) Carriers transporting commercially salable earth which is used as fill, road ballast, or aggregate are regulated under chapter 81.80 RCW as transporters of general commodities.~~

NEW SECTION

WAC 480-70-XXX Determination of authority required to transport specific commodities or provide specific services. (1) Chapter 81.77 RCW, as amended, was not intended to cover operations of carriers whose business is other than the primary business of transporting solid waste for collection and/or disposal.

_____ (a) Permit holders under the provisions of chapter 81.80 RCW, whose primary business is not the collection of solid waste, normally do not need to obtain a certificate of public convenience and necessity.

_____ (b) In some instances carriers may be engaged extensively in both motor freight carrier and solid waste collection operations. In cases where such operations are separable, carriers may be required to hold both a certificate and a permit in order to continue both services. In each case it will be within the discretion of the commission to determine whether a carrier is required to hold both a common carrier permit and a certificate.

(2) In some instances transportation of specific commodities may be subject to regulation as motor freight under the provisions of 81.80 RCW or as solid waste under the provisions of 81.77 RCW depending on the circumstances surrounding the transportation of that commodity.

(3) In making a determination regarding operations described in paragraphs (1) and (2) above the commission will consider factors including, but not limited to:

_____ (a) The intent of the shipper.

_____ (b) The intended destination of the shipment.

- _____ (c) The actual destination of the shipment.
- _____ (d) Special handling or conditions placed on the shipment by the shipper and/or receiver.
- _____ (e) The value of the commodity being transported.
- _____ (f) Whether the carrier is primarily engaged in the business of providing solid waste collection or is primarily engaged in the business of providing a service other than the collection of solid waste.
- _____ (g) Whether the carrier holds itself out to the public as a transporter of solid waste.

NEW SECTION

WAC 480-70-016 Savings clause. The commission may impose additional or different requirements on a solid waste collection company in response to a complaint or on its own motion. These rules do not relieve any company from any of its duties and obligations under the laws of the state of Washington.

NEW SECTION

WAC 480-70-XXX Severability clause. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances is not affected.

NEW SECTION

WAC 480-70-021 Rules of practice and procedure. Commission rules governing administrative practices and procedures are in chapter 480-09 WAC. If a rule in this chapter conflicts with a rule in chapter 480-09 WAC, the rule in this chapter applies. Copies of 480-09 WAC are available upon request to the commission records center.

NEW SECTION

WAC 480-70-026 Definitions. Unless the language or context indicates that a different meaning is intended, the following words, terms and phrases shall mean:

"Application docket" means a commission publication listing applications requesting operating authority, and commission action taken on applications for temporary authority.

"Biomedical waste" means, and is limited to, the following types of waste:

(a) "Animal waste" is waste animal carcasses, body parts, and bedding of animals that are known to be infected with, or that have been inoculated with, human pathogenic microorganisms infectious to humans.

(b) "Biosafety level 4 disease waste" is waste contaminated with blood, excretions, exudates, or secretions from humans or animals who are isolated to protect others from highly communicable infectious diseases that are identified as pathogenic organisms assigned to biosafety level 4 by the centers for disease control, national institute of health, biosafety in microbiological and biomedical laboratories, current edition.

(c) "Cultures and stocks" are wastes infectious to humans and includes specimen cultures, cultures and stocks of etiologic agents, wastes from production of biologicals and serums, discarded live and attenuated vaccines, and laboratory waste that has come into contact with cultures and stocks of etiologic agents or blood specimens. Such waste includes but is not limited to culture dishes, blood specimen tubes, and devices used to transfer, inoculate, and mix cultures.

(d) "Human blood and blood products" is discarded waste human blood and blood components, and materials containing free-flowing blood and blood products.

(e) "Pathological waste" is waste human source biopsy materials, tissues, and anatomical parts that emanate from surgery, obstetrical procedures, and autopsy. "Pathological waste" does not include teeth, human corpses, remains, and anatomical parts that are intended for interment or cremation.

(f) "Sharps waste" is all hypodermic needles, syringes with needles attached, IV tubing with needles attached, scalpel blades, and lancets that have been removed from the original sterile package.

Note: Certificates issued prior to the effective date of these rules may contain the terms "biohazardous waste" or "infectious waste" in describing services authorized. From the effective date of these rules, those permits shall be understood to allow the transportation of "biomedical waste."

"Biosolids" means municipal sewage sludge that is a primarily organic, semisolid product resulting from the wastewater treatment process.

"Business of transporting solid waste for ~~either collection, or and/or disposal, or both for compensation~~" means those carriers who are primarily in the specialized business of ~~transporting~~ solid waste for ~~either collection, or and/or disposal, or both~~ for all potential customers within a specified area.

"Cancellation" means: (a) an act by the commission to terminate a solid waste collection company certificate, or (b) an act by a carrier to discontinue the application of a tariff, a tariff supplement, or a tariff item.

"Certificate" means the certificate of public convenience and necessity issued by the Washington utilities and transportation commission for the operation of solid waste collection companies under the provisions of chapter 81.77 RCW.

"Certificate authority" means the territory and services granted by the commission and described in a company's certificate of public convenience and necessity.

"City regulation" means regulation of the operations of a solid waste collection company by a city through issuance of a contract.

"Classes of companies"

(a) **"Class A company"** means a traditional solid waste collection company with an annual gross operating revenue of \$1,000,000 or more, generally serving established customers on scheduled routes.

(b) **"Class B company"** means a traditional solid waste collection company with an annual gross operating revenue of less than \$1,000,000, generally serving established customers on scheduled routes.

(c) **"Class C company"** means a solid waste collection company that is not involved in traditional residential or commercial solid waste operations. This class includes specialized carriers generally hauling specific waste products for specific customers or providing only on-call or non-scheduled service.

"Class(es) of service" means either commercial, ~~competitive commercial~~, specialized, drop box, or residential service.

"Company" means solid waste collection company.

~~**"Commercial motor vehicle"** means any self-propelled or towed motor vehicle used on a highway when the vehicle:~~

- ~~• Has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of ten thousand and one pounds or more; whichever is greater; or~~
- ~~• Is used in transporting material found by the Secretary of Transportation to be hazardous under 49 U.S.C. 5103 and transported in a quantity requiring placarding under regulations prescribed by the Secretary under 49 CFR, subtitle B, chapter I, subchapter C.~~

"Commercial authority" means authority to provide solid waste collection service from a business or industrial generator(s).

"Commercial billing" means solid waste collection service either billed to a commercial business or billed to, and paid for, by a property manager or owner rather than a residential tenant.

"Commercial recycling service" means transportation of recyclable commodities from a buy-back center, drop-box, or from a commercial or industrial generator of recyclable materials when those recyclable materials are being transported for use other than landfill disposal or incineration.. Commercial recycling is regulated under Title 81.80 RCW. (Refer to WAC 480-70-011.)

"Commercial service" means:

~~(a) For purposes of certificate authority – solid waste collection service from a business or industrial generator solid waste collection service provided to a commercial or industrial generator.~~

~~(b) For purposes of tariffs and rates – the definition of commercial service for tariff and rate purpose may be influenced by several factors. The tariffs filed by each company must contain a definition that applies to that specific tariff.~~

"Commission" means the Washington utilities and transportation commission.

"Common carrier" means any person who transports solid waste by motor vehicle for compensation.

"Compacted material" means material which has been compressed by any mechanical device either before or after it is placed in the receptacle handled by the collector.

~~**"Competitive commercial service"** means service by a company having been granted a competitive commercial service certificate. It is a subcategory of solid waste authority where a class C company provides service to commercial accounts requiring alternative or flexible scheduling, specialized equipment, handling, or packaging, or specialized treatment or disposal.~~

"Construction debris" or **"construction waste"** means solid waste resulting from the building or renovation of buildings, roads and other man-made structures. Construction debris includes, but is not limited to such materials as plasterboard, cement, dirt, wood, and brush.

"Container" means a detachable receptacle from which materials are collected by mechanically lifting the receptacle and emptying the contents into the company's vehicle.

"Contract carrier" means all garbage and refuse transporters not included under the terms "common carrier" and "private carrier," as herein defined, and further, includes any person who under special and individual contracts or agreements transports solid waste by motor vehicle for compensation.

"Demolition waste" or **"demolition debris"** means solid waste resulting from the demolition or razing of buildings, roads and other man-made structures. Demolition waste includes, but is not limited to, concrete, brick, bituminous concrete, wood and masonry, composition roofing and roofing paper, steel, and minor amounts of other metals like copper.

"Disinfect" means to cleanse by destroying harmful microorganisms.

"Disposal site" means the location where any final treatment, utilization, processing, or deposit of solid waste occurs. This term includes, but is not limited to landfills, transfer stations, and incinerators.

"Drop box" means a detachable receptacle used to provide solid waste collection service by the receptacle being placed on collector's vehicle by mechanical means and transported to a disposal site.

"Dump truck operator" means a carrier holding a permit under chapter 81.80 RCW, engaged in the operation of dump trucks and similar vehicles used in the transportation of sand, gravel, dirt, debris, and other similar commodities except solid waste. The operations of this group are usually carried on during the daytime and are local in character. The activities of carriers in this group are somewhat seasonal, especially in connection with building or construction projects. The value of the commodity hauled is usually low.

"Filing" means any application, petition, tariff proposal, annual report, comment, complaint, pleading, or other document submitted to the commission.

"Garbage" means those materials of solid waste that are putrescible. ~~includes but shall not be limited to:~~

- ~~• Offal or animal and vegetable wastes which may be mixed with refuse;~~
- ~~• Scrap;~~
- ~~• Waste materials;~~
- ~~• Dead animals;~~
- ~~• Discarded articles; and~~
- ~~• Swill.~~

"Garbage and refuse" Whenever the phrase "garbage and refuse" is used as a qualifying phrase it means "either garbage or refuse, or both garbage and refuse."

"Hazardous waste" means any material that is subject to the Hazardous Waste Manifest Requirements of the U.S. Environmental Protection Agency specified in 40 CFR part 262.

"Incineration" means to reduce the volume of solid waste by use of an enclosed device using controlled flame combustion.

"Incinerator" means a site where solid waste is reduced in volume by use of an enclosed device using controlled flame combustion.

"Landfill" means a disposal facility or part of a facility at which solid waste is placed in or on land and which is not a land treatment facility.

"Leachate" means water or other liquid that has been contaminated by dissolved or materials due to contact with solid waste or gasses.

"Loose material" means material not set out in bags or containers, including materials which must be shoveled.

"Motor vehicle" means any truck, trailer, semi-trailer, tractor or any self-propelled or motor driven vehicle used on any public highway of this state for the purpose of transporting solid waste; for ~~either the collection of or the~~ and/or disposal of, of both.

"Multiple family residence" or **"multi-family residence"** means any structure housing two or more dwelling units.

"Multi-family service" means residential service provided to multi-family structures or locations including, but not limited to, duplexes, apartments, mobile home courts, and condominiums.

"Nonputrescible" means not capable of being readily decomposed by micro-organisms and not likely to produce offensive odors.

"Occasional" means occurring at irregular and infrequent intervals. The term is quantitative, not qualitative, in that the term applies to services that are only performed from time-to-time, not that the solid waste hauling is only a small part of services offered. A company holding itself out to transport solid waste is probably providing regulated services even if the collection of solid waste is only a small portion of the company's operations.

"Packer" means a device or vehicle specially designed to pack loose materials.

"Pass through fee" means a fee collected by a solid waste collection company on behalf of a third party in which the fee is billed directly to the customer without markup or markdown.

"Permanent service" means when service is provided, in conjunction with containers and drop boxes, for a period of more than ninety days.

"Person" means an individual, firm, corporation, association, partnership, consortium, joint venture, or commercial entity.

"Private carrier" means a person who, in his own vehicle, transports solid waste purely as an incidental adjunct to some other established private business owned or operated by that person in good faith. Exception: A person who transports solid waste from residential sources in a vehicle designed or used primarily for the transport of solid waste is not a private carrier.

"Private motor vehicle" means a vehicle owned or operated by a private carrier and used to transport materials or commodities as an incidental adjunct to that established private business.

"Private road" means a road not normally available for use by the public.

"Public highway" means every street, road, or highway in this state normally available for use by the public.

"Putrescible" means capable of being readily decomposed by micro-organisms and likely to produce offensive odors.

"Rate design" and "Rate structure" mean the relationship between rates charged for different solid waste service options offered to customers within the same class (residential, commercial or drop box). Neither of the terms includes setting specific rates for specific services.

"Recyclable materials" means materials that are transported for recycling, reprocessing, reclamation, or for any process that extracts or modifies the commodity for reuse or another commercially valuable purpose. (See also "commercial recycling service " and "residential recycling service.")

"Recycling" means transforming or remanufacturing materials into useable or marketable materials for use other than landfill disposal or incineration.

"Refuse" means those materials of solid waste that are not putrescible, , but is not limited to:

- ~~• Commercially worthless, useless, discarded, rejected or refused material, except offal and animal and vegetable waste materials;~~
- ~~• Scrap;~~
- ~~• Waste materials;~~
- ~~• Rubbish;~~
- ~~• Noncommercial lamp black;~~
- ~~• Waste acid;~~
- ~~• Sludge;~~
- ~~• Broken building and fire bricks;~~
- ~~• Discarded rubber tires;~~
- ~~• Noncommercial sawdust;~~
- ~~• Debris;~~
- ~~• Trade waste;~~
- ~~• Earth or dirt mixed with refuse;~~
- ~~• Discarded articles; and~~
- ~~• Industrial waste.~~

"Residence" means the regular dwelling place of an individual or individuals.

"Residential authority" means authority to provide solid waste collection from residences.

"Residential billing" means solid waste collection service billed to and paid for by a residential tenant.

"Residential recycling service " means collection of those solid wastes that are separated for recycling or reuse, such as papers, metals, and glass, that are identified as recyclable material pursuant to a local comprehensive solid waste plan.

"Residential service" means solid waste collection from residences.

~~(a) For purposes of certificate authority – solid waste collection service from a dwelling, residence, or multi-family building or facility.~~

~~—— (b) For purposes of tariffs and rates – the definition of residential service for tariff and rate purpose may be influenced by several factors. The tariffs filed by each company must contain a definition that applies to that specific tariff.~~

~~**"Service territory"** means a company-defined division of its certificate authority in which a specific tariff applies.~~

"Sewer sludge" means a semi-solid substance consisting of settled sewage solids combined with varying amounts of water and dissolved materials, generated from a wastewater treatment system, that does not meet the requirements of Chapter 70.95J RCW, and is transported to a site for disposal.

"Small business" means any company that has fifty or fewer employees.

"Solid waste" or "solid wastes" means all putrescible and nonputrescible solid and semisolid wastes including, but not limited to:

- Garbage;
- Refuse;
- Ashes;
- Industrial wastes;
- Sewage sludge;
- Demolition and construction wastes (CDL);
- Abandoned vehicles or parts of abandoned vehicles; and
- Source separated recyclable materials collected from single and multi-family residences.

"Solid waste collection" means transporting solid waste for ~~either~~ collection, ~~or~~ and/or disposal, ~~or both~~, for all potential customers in a specified area.

"Solid waste collection company" ~~means every person or his lessees, receivers, or trustees, owning, controlling, operating or managing vehicles used in the business of transporting solid waste, whether as a "common carrier" or as a "contract carrier."~~ means every person or that

person's lessees, receivers, or trustees, owning, controlling, operating or managing motor vehicles whose operations meet all of the following criteria:

(a) The company is primarily in the specialized business of transporting solid waste for collection and/or disposal;

(b) The company is being compensated for providing the transportation;

(c) The company is providing transportation over public highways in this state; and

(d) The company is providing service for all potential customers in a specified area.

"Source separation" means the separation of different kinds of solid waste at the place where the waste originates.

"Special pickup" means a pickup requested by the customer at a time other than the regularly scheduled pickup time, but which does not involve the dispatch of a truck.

"Specialized solid waste collection company" means a company providing other than traditional solid waste collection service. Specialized companies generally haul specific waste products for specific customers, provide only on-call or non-scheduled service or provide accessorial services not normally provided by traditional solid waste collection companies.

"State" means the state of Washington.

"Suspension" means: (a) an act by the commission to temporarily withhold a solid waste collection company's certificate authority, or (b) an act by the commission to withhold approval on a company's tariff filing.

"Tariff" means a document issued by a company, and approved by the commission, containing the services provided, the rates and charges the company bills its customers for those services, and the rules describing how the rates and charges apply.

"Tariff service territory" means a company-defined geographic division of its certificate authority in which a specific tariff applies.

"Temporary service" means service provided for a period of 90 days or less in conjunction with containers and drop boxes.

"Third-party waste brokers" means a person or company acting on behalf of a generator of solid waste, usually an industrial or commercial generator, to arrange for collection and/or disposal of solid waste.

"Traditional solid waste collection company" means a company engaged in collecting and removing solid waste and recyclable materials from private homes, and removing solid waste from commercial establishments, industrial facilities, and other sites. Solid waste is normally picked up on a daily, weekly, or other regular basis. Drivers are usually assigned designated

routes to collect curbside residential solid waste or transport cans or containers for commercial businesses.

"Transfer station" means a staffed, fixed supplemental facility used by persons and route collection vehicles to deposit solid wastes into transfer trailers for transportation to a disposal site. The definition does not include detachable containers, except in counties with a population of less than seventy thousand, and in any county with a population of from one hundred twenty-five thousand to less than two hundred ten thousand that is located east of the crest of the Cascade mountain range, where detachable containers shall be securely fenced, staffed by an attendant during all hours when the detachable container is open to the public, charge a tipping fee that shall cover the cost of providing and for use of the service, and shall be operated as a transfer station. (Refer to RCW 36.58.030.)

"Treatment" means incineration, sterilization, or other method, technique, or process that changes the character or composition of a biomedical waste so as to minimize the risk of transmitting an infectious disease.

"Vehicle" means every device capable of transporting solid waste on a public highway. The term "vehicle" does not include devices moved by human or animal power or used exclusively on stationary rail or tracks.

"Yard waste" or "Yard debris" means plant material commonly created in the course of maintaining yards and gardens and through horticulture, gardening, landscaping, or similar activities. Yard waste includes, but is not limited to, grass clippings, leaves, branches, brush, weeds, flowers, roots, windfall fruit, and vegetable garden debris.

NEW SECTION

WAC 480-70-031 Adoption by reference. Where referred to in this chapter, the following definitions apply:

(1) "North American Uniform Out-of-Service Criteria " published by the Commercial Vehicle Safety Alliance (CVSA) refers to the version in effect on April 1, ~~1999~~ 2000.

(2) "Title 49 Code of Federal Regulations," cited as 49 CFR, includes the regulations and all appendices and amendments in effect on October 1, ~~1999~~ 2000.

(3) "Title 40 Code of Federal Regulations," cited at 40 CFR, includes the regulations and all appendices and amendments in effect on October 1, 2000.

(4) These documents are available for public inspection at the commission branch of the Washington state library, located with the headquarters offices of the commission.

(a) Copies of Title 49 Code of Federal Regulations may be obtained on request from the commission secretary, subject to any pertinent charge. These regulations are also available from the Government Printing Office, on the Internet, and from various third-party vendors.

(b) The North American Uniform Out-of-Service Criteria is a copyrighted document, copies are available from the CVSA in Bethesda, Maryland.

NEW SECTION

WAC 480-70-036 Change of address or telephone number. A company must notify the commission in writing of any change in physical business address, business mailing address or business telephone number. Notice must be filed at least 10 days before the effective date of the change. The commission accepts written notice by letter, by fax, or by e-mail.

NEW SECTION

WAC 480-70-041 Exemptions from rules. (1) The commission may grant an exemption of any rule in this chapter when doing so is consistent with the public interest, the purposes underlying regulation, and applicable statutes.

(2) To request a rule exemption, a company must file with the commission a written request identifying the rule for which an exemption is sought and giving a full explanation of the reason the exemption is requested.

(3) The commission will assign the request a docket number, if needed, and schedule the request for consideration at one of its regularly scheduled open meetings or, if appropriate under chapter 34.05 RCW, in an adjudication. The commission will notify the company requesting the exemption, and other interested persons, of the date the commission will consider the request.

(4) The commission will issue an order granting or denying the request or setting it for hearing, pursuant to chapter 480-09 WAC.

NEW SECTION

WAC 480-70-046 Mapping. (1) **Software and scale compatibility.** The commission uses geographic information system (GIS) software to track certificate authorities. When required by this chapter to file a map, a company must file that map in either of the methods described in paragraphs (a) and (b).

(a) **Electronic maps.** A company may file an electronic map that is compatible with the commission's hardware and software. Before filing its map electronically, a company should contact the commission for answers to questions about software compatibility.

(b) **Paper maps.** A company may file a paper map using United States Geological Survey (USGS) maps at a scale of 1:250,000 to show certificate boundaries. The commission may require maps at a scale of 1:24,000 to clearly resolve any inconsistencies. USGS maps are available through the Washington state department of natural resources and various private vendors.

(2) **Map detail.** Any map submitted to the commission must:

(a) Clearly show townships (a unit of territory in the US lands survey averaging six square miles), ranges (a strip of land between two meridian lines six miles apart in the US lands survey making a row of townships), streets, county lines, and any other feature described in the certificate;

(b) Clearly label the features described in the certificate;

(c) Have a north arrow;

(d) Have a map legend (a brief description of the features on the map);

(e) Have a scale bar (a bar showing the distance on the map equal to a defined number of feet, miles or other unit); and

(f) Have a title box attached that includes the company's certificate number, the applicable tariff number, the company name (as shown on the company's certificate), and a contact name and phone number.

~~(3) **Compliance requirements.** Within 90 days of the effective date of these rules, each company must file with the commission maps meeting the requirements defined in paragraphs (1) and (2) of this rule. *Except.* companies meeting the definition of small businesses will have 120 days following the effective date of these rules to comply with this requirement.~~

NEW SECTION

WAC 480-70-051 Records retention. (1) General provisions. A company must keep all business records and reports for at least three years following the date those documents are created, unless otherwise specified in this chapter, or unless a longer retention period is required by another governmental body.

(2) **Retention schedule table.** The following schedule shows periods that companies must preserve various records.

<u>Type of Record:</u>	<u>Retention Period:</u>
1. Corporate and General Records:	
A. Incorporation and reorganization records including:	
(a) charter or certificate of incorporation and amendments;	
(b) legal documents related to mergers, consolidations, reorganization, receiverships and similar actions which affect the identity or organization of the company	Refer to Note 1.
B. Minutes of directors, executive committees, stockholders and other corporate meetings	Refer to Note 1.
2. Original certificate	Until cancellation.
3. Contracts and agreements:	
(a) Service contracts (management, accounting, financial or legal services) .	Until expiration or termination plus 3 years.
(b) Contracts with employees and employee groups	Until termination plus 1 year.

<u>Type of Record:</u>	<u>Retention Period:</u>
(c) General contracts, leases and agreements	Until termination plus 1 year.
4. Capital stock records	Refer to Note 1.
5. Long-term debt records:	
(a) Bond indentures, underwritings, mortgages, and other long-term credit agreements	Until redemption plus 3 years.
(b) Registered bonds and debenture ledgers .	Refer to Note 1.
(c) Stubs or similar records of bonds or other long-term debt issued	Refer to Note 1.
6. Ledgers:	
(a) General and subsidiary ledgers and indexes	Until discontinuance of use plus 3 years.
(b) Balance sheets and trial balance sheets of general and subsidiary ledgers	3 years.
7. Journals:	
(a) General journals	Until discontinuance of use plus 3 years.
(b) Subsidiary journals and any supporting data necessary to explain journal entries	3 years.
8. Cash books:	
(a) General cash books	Until discontinuance of use plus 3 years.
(b) Subsidiary cash books	3 years.
Note 1: Records referring to this note should be maintained as determined by the designated company records supervisory official. In determining the length of time to retain these records, companies should consider the record retention requirements of the Internal Revenue Service, Securities and Exchange Commission, state and local jurisdictions, and other regulatory agencies.	

(3) **Customer service records.** A company must maintain complete and accurate customer service records for all customers served.

(a) Customer service records must be kept on file in the general office of the company for a minimum of three years.

(b) Customer service records must be kept in alphabetical, service address or service route order.

(c) Customer service records must show at least the following information:

(i) The name and service address of the customer;

(ii) The billing address of the customer, if different than service address;

(iii) Categories and quantity of service provided, including extra services as they are provided;

(iv) Any information required to provide, on customer request, a detailed description of any amount billed the customer;

(v) Amounts billed;

(vi) Amounts collected; and

(vii) Balance due.

SECTION 2 - ACCOUNTING REQUIREMENTS, REPORTING REQUIREMENTS AND REGULATORY FEES

NEW SECTION

WAC 480-70-056 Accounting requirements. (1) The commission publishes a uniform system of accounts (USOA) for solid waste collection companies. The commission supplies copies of the USOA on request.

(a) The USOA defines accounting, financial and other procedures the commission uses to determine if rates are fair, just, reasonable and sufficient.

(b) The USOA contains accounting definitions, listings and explanations of balance sheet and income statement accounts (chart of accounts).

(2) The commission recommends companies maintain their financial and accounting records in concurrence with the USOA. Regardless of what accounting system a company uses, the company must maintain its books and records in a manner sufficient to complete the commission-issued annual report form.

NEW SECTION

WAC 480-70-061 Reporting requirements. (1) **Annual reports.** An annual report is a financial and operational summary of all activity conducted each calendar year that each regulated company is required to file with the commission.

(a) Each year the commission provides an annual report form and instructions to each company at its address of record. Failure to receive the form does not relieve a company of its obligation to complete and file its annual report. A company not receiving an annual report form must contact the commission and request a copy of the form.

(b) A company must file a complete, accurate annual report showing all requested information by May 1 of the succeeding year. Information provided on the annual report must agree with source documents maintained at company offices.

(c) The commission may grant an extension of time allowing the company to file its annual report after the May 1 due date if the commission receives a request for extension before May 1.

(d) The commission may issue penalty assessments or take action to suspend or cancel a certificate if a company fails to file its required annual report.

(e) A company selling, canceling, transferring or in some other manner discontinuing operations must submit an annual report for that portion of the year in which the company operated.

(2) **Other reports.** The commission may require a company to file periodic or other special reports.

NEW SECTION

WAC 480-70-066 Regulatory fees. A regulatory fee is an annual assessment paid by each company to cover the costs of regulating the solid waste industry.

(1) The maximum regulatory fee is set by statute at one percent of gross intrastate operating revenue. Each year, the commission may set the regulatory fee at an amount less than the statutory maximum. The minimum fee can be no less than one dollar.

(2) A company must pay its regulatory fee by April 1 of each year, ~~unless the fee is submitted to the commission with the filing of the company's annual report form for the prior calendar year. In that instance both the regulatory fees and the completed annual report form must be received together no later than May 1st.~~

(3) The commission does not grant extensions for payment of regulatory fees.

(4) If a company does not pay its regulatory fee ~~by May 1~~ by April 1, the commission will assess an automatic late fee of two percent of the amount due, plus one percent interest for each month the fee remains unpaid.

(5) The commission may issue penalty assessments or take action to suspend or cancel a certificate if a company fails to pay its regulatory fee.

SECTION 3 - CERTIFICATES

NEW SECTION

WAC 480-70-071 Certificates, general. (1) **Certificate required.** A person must have a certificate of public convenience and necessity from the commission before operating as a solid waste collection company in the state of Washington.

(2) **Company name.** The company name is the name of the certificate holder.

(a) A company electing to conduct operations under a trade name must first register the trade name with the commission.

(b) A company must conduct all operations under the company name or a registered trade name. The term "operations" includes, but is not limited to: collection, billing, advertising and identification of vehicles.

(3) **Display.** A company must keep the original of its certificate on file at its main office subject to inspection by any customer, any law enforcement officer, commission compliance officer, or other authorized commission representative who asks to see it.

(4) **Replacement.** The commission will replace a lost or destroyed original certificate at no charge.

(5) **Description of certificate authority.** When a company's certificate authority is described using boundaries such as streets, avenues, roads, highways, townships, ranges or other descriptions, those descriptions or boundaries are established in the certificate as they existed at the time the commission granted the authority.

(6) **Operating within certificate authority, extensions.** (a) A company must operate solely within the authority described in its certificate. ~~The commission must grant an extension of authority and issue a revised certificate before a company may extend its service or territory.~~

(b) The commission may institute administrative sanctions against a company ~~found~~ proven to be operating outside ~~their~~ its certificate authority. (Refer to WAC 480-70-191(4)(a) for information regarding administrative sanctions.)

NEW SECTION

WAC 480-70-076 Certificates, application fees. (1) The purpose of application filing fees is to partially cover handling and processing expenses. Application fees are not refundable.

(2) The commission establishes the following fees for application filings:

Certificate applications , including applications for new authority, extension of existing authority, transfer of authority, lease of authority, acquisition of control, competitive commercial service and reinstatement of canceled authority	\$200
Temporary certificate applications , including applications for new temporary authority and temporary authority to operate pending a commission decision on a concurrently filed certificate application	\$25
Name change applications , including applications for change of corporate name, change of trade name, additional or new trade name, and change of surname of an individual owner or partner	\$35
Mortgage applications , including requests for permission to mortgage or otherwise encumber a certificate	\$35

NEW SECTION

WAC 480-70-081 Certificates, applications. (1) A company must submit its application for certificate authority on forms provided by the commission.

(2) Applications must be complete including all requested information, attachments, signed statements, and filing fees.

(a) The commission may reject or defer consideration of an application until the applicant provides all required information and pays any outstanding fees or penalties.

(b) The commission may reject or dismiss an application if it includes false, misleading, or incomplete information.

(3) A certificate application form must include, but is not limited to:

(i) A complete description of the proposed service and the line, route, or service territory in terms described in WAC 480-70-071;

(ii) A map of the proposed line, route, or service territory that meets the standards described in WAC 480-70-046;

- (iii) A copy of each contract under which service will be performed (if contract authority is requested);
- (iv) A statement of the applicant's assets and liabilities;
- (v) A proposed tariff;
- (vi) A statement of conditions which justify the proposed service;
- (vii) An equipment list; and
- (vii) A statement of the applicant's transportation or solid waste industry experience, including knowledge of motor carrier driver and equipment safety requirements.

NEW SECTION

WAC 480-70-XXX Certificates, acquisition of control. (1) **Notice required.** Any person acquiring control of a solid waste collection company through acquisition of the stock of that company must notify the commission in writing within 30 day of the acquisition.

(2) **Content of notice.** Notice may be accomplished by filing a letter with the Commission. The letter must include at least the following information.

- (a) The name , registered trade names, and certificate number of the acquired company.
- (b) The date of acquisition.
- (c) The names of the majority stockholders, and the percent of stock each holds.
- (d) The name, address, telephone number, fax number, and e-mail address of a contact person within the company to whom enquires may be directed.
- (e) The location (mailing address and physical address) where books and records of the acquired company will be retained.

NEW SECTION

WAC 480-70-XXX Certificates, initiating service. Filing of an application for certificate authority, including but not limited to applications for permanent certificate authority, temporary certificate authority, or extended certificate authority, does not constitute authority to initiate solid waste collection operations in the territory contained in the application. The commission must grant authority and issue a certificate before a company may initiate service in that territory.

NEW SECTION

- WAC 480-70-086 Certificates, application docket, and protests, and intervention.**
- (1) **Application docket.** The application docket is a notice of pending certificate applications published by the commission. The application docket is mailed to each existing certificate holder and to any other interested person. It includes notice of certificate applications for:
- (a) New authority;
 - (b) Extension of existing authority;
 - (c) Transfer of authority;
 - (d) Lease of authority;

~~(e) Acquisition of control;~~ and

(e) Reinstatement of authority when a city discontinues self-hauling or contracting for solid waste collection.

(2) **Protests.** A certificate holder may file a protest to an application on the docket. A solid waste collection organization, association, or conference may file a protest on behalf of existing certificate holders, specifying the names of the individuals or companies in whose interests the protest is filed.

(a) **Form of protests.** Protests must:

(i) Be filed within thirty days of the date the commission mailed the application docket notice;

(ii) Be filed according to the provisions of WAC 480-09-420;

(iii) Specify the reasons for protest; and

(iv) Specify the protestant's interest in the proceeding.

(b) **Failure to file protest on time.** A person who is eligible to file a protest but fails to do so within the thirty-day protest period may not in any way participate further in the proceeding unless that person can show the commission did not provide proper notice of the pending application.

(3) **Intervention.** Any person, other than the applicant and protestants to an application, who desires to appear and participate, and who does not desire to broaden the issues of the proceeding, may petition in writing to be an intervener. Refer to WAC 480-09 for information on intervention.

(4) **Applications not subject to the docket and protest provisions of this rule.** This rule does not apply to:

(a) Applications to reinstate a certificate canceled for cause under the provisions of WAC 480-70-141, when those applications are filed within thirty days of the cancellation date;

(b) Applications for certificates to provide service under contract to the United States of America or any federal government agency;

(c) Applications for certificates to provide service under contract to any state or local government agency;

(d) Applications for temporary certificate authority;

(e) Applications for name change; or

(f) Applications to mortgage a certificate.

NEW SECTION

WAC 480-70-091 Certificates, overlapping applications. (1) The commission may consolidate for joint consideration applications for certificate authority if:

(a) The authority requested in the applications overlaps in whole or in part; and

(b) The subsequent application was filed within thirty days of the mailing date of the application docket notice of the original application.

(2) Applications for overlapping authority not filed within thirty days after the initial application(s) docket notice will be decided after the conclusion of proceedings resolving the initial application and any other application(s) qualifying for joint consideration.

(3) The commission may consolidate overlapping applications, under the provisions of WAC 480-09-610.

(4) When applications consolidated by the commission for joint consideration also contain requests for territory or services not overlapping that requested in the other application(s), and the non-overlapping services or territory may be appropriately severed, the commission may decide the non-overlapping portions of the application(s) separately from the portions that do overlap.

NEW SECTION

WAC 480-70-096 Certificates, sale, lease, transfer or mortgage. (1) A company must obtain commission approval before it may sell, assign, lease, transfer, or mortgage its certificate, or any portion of the operating authority described in its certificate.

(2) To obtain commission approval for sale, assignment, lease, transfer or mortgage, all parties to the transaction must file a joint application with the commission.

NEW SECTION

WAC 480-70-101 Certificates, name change. (1) A company must file a name change application to :

- (a) Change a corporate name;
- (b) Change trade name;
- (c) Add a trade name to a certificate: or
- (d) Change the surname of an individual owner or partner to reflect a change resulting from marriage or other legal action.

(2) When filing a name change application, the applicant must include:

- (a) The application fee (as shown in WAC 480-70-076);
- (b) Copies of any corporate minutes authorizing the name change; and
- (c) Proof that the new name is properly registered with the department of licensing, office of the secretary of state, or other agencies, as may be required.

(3) If a name change results from a change in ownership, including addition or deletion of a partner, the company must file an application to transfer the certificate (Refer to WAC 480-70-076).

NEW SECTION

WAC 480-70-106 Certificates, no refiling of denied application prohibited for six months. (1) A person whose application has been denied after hearing may not refile the application for a period of six months from the date of the final order denying the application.

(2) A person whose application has been dismissed for failure to appear at a hearing, or who has been found to be in default, may not refile the application for a period of six months from the date of the final order dismissing the application.

NEW SECTION

WAC 480-70-111 Certificates, temporary, and protests, and intervention. (1) **Requirements.** Temporary certificate applications are subject to the requirements of WAC 480-70-081.

(2) **Shipper support statements required.** Applicants for temporary certificates must include signed and sworn support statements from one or more potential customers.

(a) Support statements must identify all pertinent facts relating to need for the proposed service.

(b) The commission may limit temporary to allow a company to provide service to only those customers whose support statements are submitted with an application. Exceptions to this provision include, but are not limited to temporary authorities issued authorizing service in the territory of an existing certificate during an emergency or during a period of certificate suspension.

(3) **Special terms and conditions.** The commission may impose special terms and conditions in connection with the grant of any temporary certificate.

(4) **Public interest.** The commission may grant a temporary certificate after determining that granting the requested authority is in the public interest. The commission will consider the fitness of the applicant and the following additional factors when determining if the requested temporary authority is consistent with the public interest:

(a) The immediate or urgent need for the requested service;

(b) Whether the requested service is currently available from an existing company serving the territory; and

(c) Any other circumstances indicating that a grant of temporary authority is consistent with the public interest.

(5) **Length of service allowed under temporary.** The commission may issue a temporary certificate effective for a period:

(a) Of up to 180 days when the area or service territory is not contained in another company's certificate.

(b) Of up to 120 days when the area or service territory is contained in another company's certificate.

(c) Continuing until the commission grants, denies, or dismisses a parallel certificate application for permanent authority, or until the temporary certificate is otherwise canceled, whichever happens first. Provided, the certificate application must be filed within thirty days of the temporary certificate application or within thirty days of the order granting the temporary certificate.

(6) **Docketing.** The commission will publish the following on its application notice:

(a) Temporary certificates granted, including any terms and conditions attached to the grant of such authorities; and

(b) A list of all applications for temporary certificate authority that were considered and denied.

(7) **Protests.** An existing company may file a protest opposing a temporary certificate, if the area or service territory granted is contained in the existing company's certificate. A solid waste collection organization, association, or conference may file a protest on behalf of existing companies, specifying the names of the individuals or companies in whose interests the protest is filed. Protests must:

(a) Be filed with the commission in writing within twenty days after the date the commission mails the application docket.

(b) Contain a statement of the specific grounds on which the protest is made;

(c) Contain a statement of the protestant's interest in the proceeding;

(d) Be served on the applicant; and

(e) Be served on the applicant's representative, if one is stated in the notice.

(8) **Disposition of protests.** The commission may grant or deny a protest without hearing.

(9) **Brief adjudicative proceedings.** The commission may order a brief adjudicative proceeding on its own motion or at the request of a party. Refer to WAC 480-09 for procedures on brief adjudicative proceedings.

(10) **Intervention.** Any person, other than the applicant and protestants to an application, who desires to appear and participate, and who does not desire to broaden the issues of the proceeding, may petition in writing to be an intervener. Refer to WAC 480-09 for information on intervention.

NEW SECTION

WAC 480-70-XXX Certificates, temporary, expedited application. To meet an immediate or urgent need for service and determining that doing so would be consistent with the public interest, the commission may grant temporary authority using an expedited application process . For application of this chapter, authority granted under these provisions shall be known as expedited temporary authority.

(1) **Determining public interest.** In determining whether granting expedited temporary authority is consistent with the public interest, the commission will consider the following factors:

(a) A showing of an immediate or urgent need for the requested service;

(b) The presence or lack of available service capable of meeting the need; and

(c) Any other circumstances indicating that the grant of the expedited temporary authority is consistent with the public interest.

(2) **Restrictions on expedited authority.**

(a) The commission may grant expedited temporary authority for periods of not more than thirty days.

(b) The commission may limit expedited temporary authority to providing service to the specific customer or customers supporting the application.

(c) The commission may further limit expedited temporary authority to service within a specific county, a specific city, a specific geographical area, a specific route, or a specific site.

(3) **Application for expedited temporary authority.** A company applying for expedited temporary authority must submit at least the following:

(a) An application on forms provided by the commission.

(b) Statements from a customer or customers setting forth all pertinent facts relating to the need for service.

(c) Proof that the applicant holds insurance coverage in the amounts, and meeting the provisions, of WAC 480-70-156. Proof may consist of an insurance policy or a certificate of insurance.

(d) An application fee of \$25.00.

(e) A statement that the company will comply with all applicable safety regulations including, but not limited to, those regulations relating to driver qualifications, hours of service, equipment safety, and drug and alcohol testing.

NEW SECTION

~~— **WAC 480-70-116 Certificates, competitive commercial services.** Service to the satisfaction of the commission, as referred to in RCW 81.77.040, may require that a commercial customer, or class of commercial customers, have access to competitive commercial solid waste collection services.~~

~~— (1) **Subcategory of solid waste authority.** Competitive commercial service is a subcategory of solid waste authority. An unrestricted solid waste (or garbage and refuse) certificate allows the company holding it to provide competitive commercial services. Persons may apply for, and the commission may restrict grants of solid waste authority to, operations as a competitive commercial services provider. Companies receiving authority to operate solely in competitive commercial service will be considered class C carriers for purposes of regulation.~~

~~— (2) **Competitive commercial service criteria defined.** The commission may grant a certificate to provide competitive commercial service when a commercial customer's business generates waste in a quantity, or of a nature, that requires the company to provide:~~

~~— (a) Alternative or flexible scheduling;~~

~~— (b) Specialized equipment, handling, or packaging; or~~

~~— (c) Specialized treatment or disposal.~~

~~— (3) **Grant not a substitute for traditional service.** Grant of competitive commercial service does not replace or diminish the exclusive rights of an existing underlying class A or class B solid waste collection company to provide traditional solid waste service (serving established customers on scheduled routes) to any and all residences or commercial establishments in the operating authority contained in its certificate.~~

~~— (4) **Application required.** An applicant for competitive commercial service must complete and file an application under the provisions of WAC 480-70-081. The applicant for competitive commercial service must submit:~~

~~_____ (a) A statement describing the proposed service explaining why the service should be classified or defined as competitive commercial service; and~~

~~_____ (b) Support statements from potential shippers who require competitive commercial services detailing all pertinent facts relating to the need for such service.~~

~~_____ (5) **Factors considered.** The commission will consider the fitness of the applicant and the following additional factors when determining if the requested competitive commercial services authority is consistent with the public interest:~~

~~_____ (a) The need for the requested service;~~

~~_____ (b) Whether the requested service meets the criteria for competitive commercial service defined in paragraph (2) of this; and~~

~~_____ (c) Any other circumstances indicating that a grant of authority is consistent with the public interest.~~

~~_____ (6) **Notice.** The commission will publish notice in its application docket of all:~~

~~_____ (a) Competitive commercial service applications granted;~~

~~_____ (b) Competitive commercial service applications denied; and~~

~~_____ (c) Applications for competitive commercial service which after review were found not to meet the criteria defined in paragraph (2) of this rules and should be considered as applications for traditional solid waste authority.~~

~~_____ (6) **Protests.** Those applications for competitive commercial service that were granted shall be subject to protest for 20 days.~~

~~_____ (a) An existing company may file a protest opposing a competitive commercial service, if the area or service territory granted is contained in the existing company's certificate. A solid waste collection organization, association, or conference may file a protest on behalf of existing companies.~~

~~_____ (b) Protests must:~~

~~_____ (i) Be filed with the commission in writing within twenty days after the date the commission mails the application docket.~~

~~_____ (ii) Contain a statement of the specific grounds on which the protest is made;~~

~~_____ (iii) Contain a statement of the protestant's interest in the proceeding;~~

~~_____ (iv) Be served on the applicant; and~~

~~_____ (v) Be served on the applicant's representative, if one is stated in the notice.~~

~~_____ (c) The commission may grant or deny a protest without hearing.~~

~~_____ (d) If the commission grants a protest, the matter will be set for a hearing or brief adjudicative proceeding to resolve the issues.~~

~~_____ (7) **Limited benefits.** A certificate authorizing competitive service is not exclusive or franchised authority to serve all potential customers in certificate area, and as such the company is not entitled to the benefits of an exclusive or franchised authority.~~

NEW SECTION

WAC 480-70-XXX Certificate Authority Canceled by City Annexation or Incorporation. (1) Self-haul or contract city service. When a city that self-hauls or contracts for

solid waste collection service annexes any area contained in a company's certificate, the affected certificate authority is canceled ~~on the effective date of the annexing ordinance or resolution~~ as of the date of the city's written notification to the commission that the solid waste collection operations in the annexed area are exempt as provided for in RCW 81.77.020 or the effective date of any ordinance, resolution, franchise, or contract providing such exemption, whichever is later.

(2) **Commission regulated city service.** When a city that does not self-haul or contract for solid waste collection service annexes or incorporates an area contained in a certificate, the affected certificate authority is canceled on the effective date of a city contract issued for solid waste collection service, or on notice to the commission of a city ordinance or resolution which removes the city service from commission regulation under the provisions of RCW 81.80.020.

(3) **Contract for city service.** Upon entering into a contract with a city to provide solid waste collection services and if the area to be served is contained in the company's certificate authority, a company must provide written notification to the commission within thirty days of the date of the agreement. Notice must include a cover letter, a copy of the executed agreement, and a map of the affected area. The map submitted must meet the standards defined in WAC 480-70-046.

(4) **Compensation for canceled certificate authority.** A company must notify the commission in writing within thirty days of a city purchasing or condemning, ~~or otherwise compensating the company for~~ its certificate authority. Notice must include a cover letter and a copy of any the contract or ordinance.

(5) **Self-haul or contract city service discontinued.** When a city notifies the commission of its decision to discontinue self hauling or contracting for solid waste collection service the original canceled certificate authority may be reinstated and a certificate issued to the previous certificate holder.

(a) The previous certificate holder may petition for reinstatement of original certificate authority canceled by city annexation or incorporation.

(b) If the certificate has been transferred to a new company, then the current certificate holder may petition for reinstatement of original certificate authority canceled by city annexation or incorporation.

(c) If the previous certificate holder was compensated for the canceled authority, the commission will accept applications for new certificate authority.

(d) If no previous certificate holder exists, the commission will accept applications for new certificate authority.

NEW SECTION

WAC 480-70-126 Contracts. Contracts accompanying applications for certificate authority must be original or duplicate original contracts. They must be mutually binding on both the shipper and company, entered into and performed in good faith, and include:

- (a) The starting and ending dates of the agreement;
- (b) The route or area in which service will be provided;

- (c) The kind and minimum quantity of the commodities to be transported (the minimum quantity must be an amount sufficient to allow operation of the company's equipment at a profit);
- (d) The rates agreed on by the parties;
- (e) A description of the process for terminating the contract before the stated expiration date, which specifies that at least five days' notice must be given to the commission and to both parties before the termination process may be implemented; and
- (f) A provision stating that the contract is subject to the authority of the commission to fix or amend just, fair, and reasonable classifications, rules, and minimum rates and charges for solid waste collection service.

NEW SECTION

WAC 480-70-131 Service agreements between companies. (1) A company may enter into an agreement to allow another company to operate in its territory when the first company:

- (a) Holds exclusive authority for ~~class A or class B~~ solid waste collection service in the territory to be served; and
- (b) Lacks suitable equipment to adequately serve its customers, or is unable to provide service on a temporary basis due to situations such as, but not limited to, road closures, temporary weight limitations, or other temporary restrictions imposed by local jurisdictions.

(2) The commission must approve the agreement before any service is provided. To apply for commission approval, the companies must jointly file a copy of the written agreement at least ~~thirty~~ fifteen days before the proposed effective date of the agreement. Companies may request the fifteen-day approval period be waived in the case of an emergency.

- (3) The agreement filed with the commission must clearly state:
 - (a) The first company will bill customers for service provided by the second company at rates and charges contained in the first company's filed tariff.
 - (b) The first company will reimburse the second company for providing service in compliance with terms for reimbursement stated in the agreement.
 - (c) The beginning and ending dates of the agreement.
 - (d) A provision for early termination of the agreement which includes at least five days' notice to the commission and to each party.

NEW SECTION

WAC 480-70-XXX Contracts or service agreements with third-party waste brokers. (1) A company providing solid waste service under a contract or agreement with third-party waste brokers must comply with all laws of the state of Washington, all Commission rules, and Commission policies relating to solid waste collection and/or disposal.

NEW SECTION

WAC 480-70-136 Suspending certificates (1) Cause for suspension. The commission may suspend a certificate for good cause. Cause includes, but is not limited to:

- (a) Failure to maintain evidence of required liability insurance coverage for all areas of a company's operations;
- (b) Failure to file an annual report or pay required regulatory fees;
- (c) Failure to comply with the rates and rules contained in the company's filed tariff;
- (d) Failure or refusal to comply with operating standards that protect the public health, safety or welfare;
- (e) Allowing others to operate under a company's certificate authority without having first obtained commission approval (Refer to WAC 480-70-096 - leasing of authority and WAC 480-70-131 service agreements); or
- (f) Operating in a manner that harms the rights of customers or constitutes unfair or deceptive business practices.

(2) **Notice of suspension.** The commission will issue an order notifying the company of the commission's action to suspend a certificate. Suspension is effective on the date the commission mails the suspension order (service date).

(3) **Contest of suspension.** A company may contest the suspension of its certificate by requesting a hearing or brief adjudicative proceeding. Procedures for brief adjudicative proceedings are contained in chapter 480-09 WAC.

(4) **Suspension without opportunity for prior hearing.** The commission may suspend a certificate without an opportunity for prior hearing if there is imminent danger to the public health, safety or welfare, and there is insufficient time to conduct a hearing. If the commission invokes this suspension clause, the commission will, as soon as is practical, schedule a hearing or brief adjudicative proceeding to determine if the suspension should continue in force and effect.

NEW SECTION

WAC 480-70-141 Canceling certificates. (1) Cause for cancellation of a certificate. The commission may cancel a certificate for good cause. Cause includes, but is not limited to:

- (a) Failure to file an annual report or pay required regulatory fees;
- (b) Failure to correct within the time specified in a suspension order all conditions listed in the suspension order that led to the certificate's suspension;
- (c) Continued violations of applicable laws and rules affecting the public health, safety or welfare when the commission has reason to believe the company would not comply with those laws and rules following a specified period of suspension;
- (d) Repeated failure or refusal to comply with applicable laws and rules pertaining to operations of solid waste collection companies;
- (e) Failure to supply requested information needed by the commission in the performance of its regulatory functions;
- (f) Submission of false, misleading or inaccurate information; or.
- (g) Allowing others to operate under a company's certificate authority without having first obtained commission approval (Refer to WAC 480-70-096 - leasing of authority and WAC 480-70-131 - service agreements).

(2) **Cancellation hearing.**

(a) The commission will normally hold a hearing prior to canceling a certificate, or will offer the company an opportunity for hearing.

(b) No hearing is necessary if an order of suspension issued by the commission stated a date by which a company must correct the causes which led to the suspension and the company failed to take corrective action within the time frame shown in that order.

(3) **Notice of cancellation.** The commission will issue an order notifying the company of the commission's action to cancel a certificate. The cancellation is effective on the date the commission mails the cancellation order (service date).

(4) **Contest of cancellation.** A company may contest the cancellation of its certificate by requesting a hearing or brief adjudicative proceeding. The procedures for brief adjudicative proceedings are contained in chapter 480-09 WAC.

NEW SECTION

WAC 480-70-146 Certificates, reinstatement. (1) The commission may reinstate a certificate canceled for cause under provisions of WAC 480-70-141 (canceling certificates) if the company corrects all conditions leading to the cancellation and files a certificate application to reinstate authority with proper application fee within thirty days of the cancellation effective date.

(2) The commission may reinstate a certificate, or any portion of the operating authority contained in a certificate, canceled by city annexation or incorporation under the conditions specified in WAC 480-70-121 (annexation/incorporation rule).

(3) The commission may reinstate a certificate suspended under the provisions of WAC 480-70-136 (suspending certificates) if the company satisfies the terms of the suspension and all conditions leading to the suspension are corrected.

NEW SECTION

WAC 480-70-151 Certificates, Discontinuance of operations. (1) A company must not discontinue operations authorized under its certificate without first obtaining approval from the commission.

(2) A company requesting commission approval to discontinue operations must give at least ten days' written notice to its customers, officials of cities and counties where affected customers reside, and the commission.

(3) A request for approval to discontinue operations must contain at least the following:

(a) The name, telephone number, mailing address, fax number (if any) and e-mail address (if any) of a contact person;

(b) An explanation of the company's reasons for requesting approval to discontinue operations;

(c) A statement of the number of customers, by class of service provided, who will lose service if the commission grants the requested approval to discontinue operations; and

(d) An explanation of options available to the customers who will lose service. For example: names of landfills and/or transfer stations to which the customer may self-haul or the names of companies with overlapping certificates.

SECTION 4 - INSURANCE

NEW SECTION

WAC 480-70-156 Public liability and property damage insurance.

(1) **Insurance coverage.** A company must have public liability and property damage insurance covering each motor vehicle it operates in the state of Washington.

(a) The insurance policy must be written by an insurance company authorized to write insurance in the state of Washington.

(b) The insurance policy must include the Uniform Motor Carrier Bodily Injury and Property Damage Liability Endorsement (Form F).

(c) If a company operates without the required insurance coverage, the commission may take immediate compliance action as described in WAC 480-70-141.

(2) **Insurance limits.** The minimum limits of required public liability and property damage insurance for motor vehicles operated by companies are as follow:

Vehicles that:	Must have bodily injury and property damage insurance or bond with the following minimum limits:
Have Gross Vehicle Weight Rating (GVWR) less than 10,000 pounds	\$300,000 combined single limit coverage
Have GVWR 10,000 pounds or more	\$750,000 combined single limit coverage
Transport quantities of biomedical waste not subject to federal regulation	\$1,000,000 combined single limit coverage
Transport quantities of hazardous or biomedical waste which are subject to federal regulation	The federal minimum combined single limit coverage.

(3) Insurance filings. A company must file and maintain a Uniform Motor Carrier Bodily Injury Property Damage Certificate of Insurance (Form E) as a condition of being issued and maintaining a certificate.

(a) The Form E is a standard motor carrier insurance form recognized by the insurance industry and is normally filed with the commission by an insurance company rather than an insurance agent.

(b) The Form E must be issued in the company name exactly as it appears on the company's certificate or application for certificate.

(c) The Form E filing must remain in effect until canceled by a Notice of Cancellation (Form K). The Form K must be filed with the commission not less than thirty days before the cancellation effective date.

(d) A company may file a Uniform Motor Carrier Bodily Injury and Property Damage Liability Surety Bond (Form G) instead of the Form E.

(4) Insurance binders. The commission will accept an insurance certificate or binder for up to sixty days.

(a) An insurance certificate or binder may be canceled by written notice filed with the commission at least ten days before the cancellation effective date.

(b) An insurance certificate or binder must be replaced by a Form E within sixty days of filing, or before the expiration date, whichever occurs first.

(c) Insurance certificates or binders must show:

(i) The commission as the named insurance certificate holder;

(ii) The company name, exactly as it appears on the company's certificate or application for a certificate, as the insured;

(iii) The insurance company name;

(iv) The insurance policy number;

(v) The insurance policy effective and expiration dates; and

(vi) The insurance limits of coverage.

NEW SECTION

WAC 480-70-161 Insurance cancellation. If a company’s insurance filing is canceled, and a new filing which provides continuous coverage is not filed before the cancellation effective date, the commission may:

- (a) Dismiss a company's application for a certificate;
- (b) Suspend a company's certificate under the provisions of WAC 480-70-136;
- (c) Cancel a company’s certificate under the provisions of WAC 480-70-141.

SECTION 5 - EQUIPMENT AND DRIVERS

NEW SECTION

WAC 480-70-171 Vehicle licensing. A company must ensure that each vehicle it operates is in compliance with all appropriate state vehicle licensing laws, commission rules, and commission orders.

NEW SECTION

WAC 480-70-XXX Commercial vehicle defined. For the purposes of the rules in this Section Five (Equipment and drivers), "commercial motor vehicle" means any self-propelled or towed motor vehicle used on a highway when the vehicle:

(a) Has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of ten thousand and one pounds or more; whichever is greater; or

(b) Is used in transporting material found by the Secretary of Transportation to be hazardous under 49 U.S.C. 5103 and transported in a quantity requiring placarding under regulations prescribed by the Secretary under 49 CFR, subtitle B, chapter I, subchapter C.

NEW SECTION

WAC 480-70-176 Vehicle and driver safety requirements. (1) Companies must comply with all state and local laws and rules governing vehicle and driver safety. Companies must also comply with the following parts of Title 49, Code of Federal Regulations (49 CFR) which are adopted by reference:

49 CFR Part Adopted:	Portions Not Adopted:
Part 382 - Controlled Substance and Alcohol Use and Testing	n/a

49 CFR Part Adopted:		Portions Not Adopted:	
Part 383 -	Commercial Driver's License Standards; Requirements and Penalties	n/a	
Part 390 -	Safety Regulations, General	(1)	The terms "motor vehicle," "commercial motor vehicle," and "private vehicle" are not adopted. Instead, where those terms are used in Title 49 CFR, they shall have the meanings assigned to them in WAC 480-70-026 (<u>private vehicle</u>) and WAC 480-70-xxx (<u>commercial motor vehicle</u>).
		(2)	Whenever the term "director" is used in Title 49 CFR, it shall mean the commission.
Part 391 -	Qualification of Drivers	(1)	A driver who operates exclusively within the state of Washington is not subject to the provisions of Part 391.49 (waiver of certain physical defects), if that driver has obtained from the Washington department of licensing a driver's license with endorsements and restrictions allowing operation of the motor vehicle being driven.
		(2)	A driver who operates exclusively within the state of Washington is not subject to the provisions of Part 391.11(b)(1) (general qualifications - age). A driver operating exclusively within the state of Washington may drive a motor vehicle if he or she is at least eighteen years of age.
Part 392 -	Driving of Motor Vehicles	n/a	
Part 393 -	Parts and Accessories Necessary for Safe Operation	n/a	
Part 395 -	Hours of Service of Drivers	n/a	
Part 396 -	Inspection, Repair, and Maintenance	n/a	
Part 397 -	Transportation of Hazardous Materials, Driving and Parking Rules	n/a	

(2) Companies must:

- (a) Maintain all motor vehicles in a safe and sanitary condition;
- (b) Ensure that vehicles are free of defects likely to result in an accident or breakdown; and
- (c) Make vehicles available for inspection by commission representatives.

(3) The commission will place out-of-service any motor vehicle having safety defects identified in the *North American Uniform Out-Of-Service Criteria*. A company must not operate any vehicle placed out-of-service until after proper repairs have been completed.

(4) The commission will place out-of-service any driver meeting criteria identified in the *North American Uniform Out-Of-Service Criteria*. A company must not allow a driver who has been placed out-of-service to operate a motor vehicle until such time as the conditions causing the driver to be placed out-of-service have been corrected.

NEW SECTION

WAC 480-70-181 Motor vehicle identification. A company must ensure that all motor vehicles operated, including leased, substitute or emergency vehicles, display the certificate holder's name (or registered trade name) and certificate number on each side of the vehicle. All identifications must be clearly legible. All identifications, except those displayed on leased or substitute vehicles, must be permanent.

NEW SECTION

WAC 480-70-186 Leasing vehicles. (1) A company operating a leased vehicle must have a written lease agreement with the owner of the vehicle.

(2) It is the company's responsibility to ensure that:

- (a) A copy of the lease is carried in each leased vehicle;
- (b) A copy of the lease is kept in the company's files during the effective period of the lease agreement and for at least one year after the lease expires;
- (c) A copy of the lease is provided to the owner of the leased vehicle;
- (d) The company has complete possession, control and use of the motor vehicle during the period of the lease agreement;
- (e) The leased motor vehicle is properly insured as specified in WAC 480-70-156;
- (f) The leased vehicle is properly identified as specified in WAC 480-70-181;
- (g) The vehicle is operated in compliance with all safety laws and rules, including those regarding vehicle inspection, records and maintenance; and
- (h) The terms of the lease agreement are followed.

(3) If a company leases a vehicle with a driver, the company must also ensure that:

- (a) The driver of the leased motor vehicle is on the company's payroll during the lease period;
- (b) The driver operates in compliance with all driver qualification, safety and hours of service laws and rules;
- (c) The driver is subject to the company's alcohol and controlled substance policies; and
- (d) The company maintains appropriate files and paperwork on the driver for a period of at least one year following the expiration of the lease agreement.

(4) The company and the owner of the leased vehicle must specify in the lease agreement who is responsible for all expenses relating to the leased motor vehicle. The lease agreement must contain all information shown in the following sample lease agreement form. If a company uses an alternate form, the company must ensure the alternate form contains all information requested on the sample.

Illustration of motor vehicle lease form:

<p>EQUIPMENT LEASE AGREEMENT A copy of this lease must be carried in the leased vehicle. Copies must also be maintained in the files of both parties for the length of the lease plus one year following the expiration of the lease.</p>					
Name and address of company leasing vehicle (lessee):			G certificate number:		
Name and address of party from whom the vehicle is being leased (lessor):			G certificate number, if any:		
Vehicle make and year:		Vehicle Serial Number:		Vehicle License Number:	
The lease will become effective at _____ (time) on _____ (date), and will continue until _____ (date) unless canceled in writing before that date.					
Compensation that will be paid to owner of vehicle (lessor): \$ _____ per _____					
If lease also includes driver, compensation for driver: \$ _____ per _____					
<p>Lessee/Lessor Expense Agreement Place an "x" or a checkmark next to each item indicating whether the lessee or lessor is responsible for the listed expenses.</p>					
Item	Lessee	Lessor	Item	Lessee	Lessor
Vehicle Licensing Fees			Equipment Rental Taxes		
Toll and Ferry Charges			Fuel and Oil		
Vehicle Loan Payments			Vehicle Maintenance		
Parts & Tires			Major Vehicle Repairs		
Insurance, Comprehensive			Minor Vehicle Repairs		
Insurance, Theft			Other (explain):		
Insurance, Fire			Other (explain):		
Under the terms of this lease, the lessee must: <ul style="list-style-type: none"> ● Have complete possession, control and use of the vehicle during the lease period; ● Be in complete control of all operations; ● Provide liability and property damage insurance; ● Ensure that the driver of the leased vehicle is an employee of the lessee; ● Ensure that the vehicle is properly identified; ● Comply with all safety regulations; and ● Bill and collect proper tariff rates and charges. 					
The parties signing this lease certify that the information shown above is true and correct, that the provisions of the lease will be enforced by both parties, and that all operations conducted with the leased equipment will be conducted in compliance with applicable laws and rules.					
Lessee Signature/Title _____ date signed _____					
Lessor Signature/Title _____ date signed _____					

SECTION 6 - COMPLIANCE

NEW SECTION

WAC 480-70-191 Commission compliance policy. (1) The commission is authorized to administer and enforce laws and rules relating to solid waste collection companies. The commission delegates authority to its staff to inspect equipment, drivers, records, files, accounts, books and documents. The commission also delegates to staff authority to arrest without warrant or to issue citations to any person found violating this chapter in the presence of commission staff.

(2) The commission encourages voluntary compliance with statutes, rules and commission orders.

(3) The commission will enforce statutes, rules and commission orders through:

(a) A program emphasizing education and technical assistance.

(b) A compliance program including:

(i) Investigation and resolution of complaints;

(ii) Safety compliance reviews of drivers and equipment;

(iii) Economic compliance audits including rates, charges and billing practices;

(iv) Coordinated roadside enforcement; and

(v) Cooperative agreements with other agencies to enable effective enforcement and appropriate use of resources.

(4) Where necessary to ensure compliance with statutes, rules and commission orders, the commission will pursue:

(a) Administrative actions that the commission believes will best assure future compliance by the violating company, including, but not limited to, warnings, sanctions, or penalty assessments under the provisions of chapter 81.04 RCW.

(b) Suspension or cancellation of a company's certificate:

(i) When the commission believes education and penalties have not been, or will not be, effective to secure compliance;

(ii) For willful violations of legal requirements; and

(iii) For serious actions including, but not limited to, misrepresentation.

(c) Enforcement action against violators based on information collected by commission staff.

(d) Proceedings in district and superior court.

NEW SECTION

WAC 480-70-196 Sanctions for operating without a valid certificate

(1) **Operations without a certificate.**

(a) A company that operates as a solid waste collection company without a certificate from the commission is subject to citation if observed or contacted by a representative of the commission or other law enforcement agency.

(b) If the commission receives information that a solid waste collection company is operating without a certificate, and a commission representative or other law enforcement agency has not observed those operations, the commission may:

(i) Issue a citation through the court; or

(ii) Contact the solid waste collection company and provide education and technical assistance concerning applicable regulations. This includes supplying the company with a copy of the applicable laws, rules, and certificate application forms.

(c) If the solid waste collection company continues to operate without a certificate after commission education and technical assistance, the commission may institute an administrative proceeding to classify the company. If, as a result of that proceeding, the commission formally classifies the company as a solid waste collection company operating without the required certificate, the commission will issue a cease and desist order pursuant to RCW 81.04.510.

(d) If a company operates in violation of a commission order, the commission may take legal action in court.

(2) **Operating while certificate is suspended.** A company that operates after the commission suspends the company's certificate is subject to:

(a) Misdemeanor or gross misdemeanor citations, for which the company must appear in district court.

(b) Monetary penalty assessments or other commission administrative actions.

(c) Commission proceedings to cancel the company's certificate.

(3) **Operating after certificate is canceled.** A company that continues to operate after the commission cancels the company's certificate is subject to:

(a) Misdemeanor or gross misdemeanor citations, for which the company must appear in district court.

(b) Enforcement proceedings in superior court.

SECTION 7 - TARIFFS, RATES AND RATE FILINGS

NEW SECTION

WAC 480-70-201 Tariffs, general. (1) **Solid waste tariffs no longer subject to Chapter 480-149 WAC.** As of the effective date of these rules, solid waste collection companies are not subject to the provisions of the commission's Tariff Circular No. 6 (Chapter 480-149 WAC). As of that effective date, the requirements of this chapter ~~WAC 480-70-201 through WAC 480-70-291~~ will apply.

(2) **Additional regulatory requirements.** Companies are also subject to additional rules regarding rate filings contained in chapter 480-09 WAC, including but not limited to:

(a) WAC 480-09-015 - Submission of "confidential" information;

(b) WAC 480-09-101 - When communications are received;

(c) WAC 480-09-120 - Filing and service by telefacsimile; and

(d) WAC 480-09-300 through WAC 480-09-335 - Filing requirements.

NEW SECTION

WAC 480-70-XXX Tariffs -- All companies must file tariffs and must comply with the provisions of approved tariffs. (1) No company may provide solid waste collection service until such time as it files, and the commission approves, a tariff.

(2) It is unlawful for a company to assess rates and charges for solid waste collection service that are higher, lower, or different from those contained in its approved tariff.

(3) It is unlawful for a company to accept payment for service provided that is higher, lower, or different from the rates and charges contained in its approved tariff.

NEW SECTION

WAC 480-70-206 Tariffs, content, and posting. ~~(1)~~ **Content requirements.** A company must file with the commission a tariff showing all rates and charges it will charge its customers, together with rules that govern how rates and charges will be assessed. The tariff must contain, but is not limited to:

- (1) A title page;
- (2) A rules section;
- (3) A rates section; and
- (4) A map.

WAC 480-70-XXX Tariffs, Posting. (1) A company must maintain a copy of its current approved tariff in its office(s).

(2) The tariff maintained in company office(s) must be available for inspection on request by customers

NEW SECTION

WAC 480-70-211 Rates, general. (1) Rates and charges must cover a complete service, including disposal, unless a separate charge for disposal is specifically named in the tariff.

(2) Rates and charges must be stated by unit. For example: Dollars and cents per can, per trip, per hour, per service, per week, per month, or other.

NEW SECTION

WAC 480-80-216 Tariffs, rejection. The commission will reject tariffs that:

- (a) Do not contain all required information;
- (b) Do not comply with format rules;
- (c) Do not comply with the notice requirements;
- (d) Are not accompanied by required maps;
- (e) Reflect retroactive rate treatment;

(f) Are not filed in accordance with the notice requirements shown in WAC 480-70-XXX through WAC 480-70-XXX; or

- (g) Contain provisions that conflict with state statutes or commission rules.

NEW SECTION

~~**WAC 480-70-221 Tariffs, Notice required, and filings requesting less than statutory notice handling (LSN).** The commission establishes the following notice periods that shall apply on all tariffs or tariff amendments filed with the commission. The commission will reject any tariff filing received too late to give the commission the required notice. Refer to chapter 480-09 WAC for additional information regarding filing dates.~~

- ~~—— (1) **One days' notice filings.** The commission may approve on one days' notice:~~
 - ~~—— (a) Initial tariff filings that accompanied applications for certificate authority, temporary certificate authority, competitive commercial service authority; and~~
 - ~~—— (b) Adoption of tariffs filed under the provisions of WAC 480-70-266.~~
- ~~—— (2) **Seven days' notice filings.** A company must provide no less than seven calendar days' notice to the commission on filings whose only purpose is:~~
 - ~~—— (a) To implement decreases in rates or charges; or~~
 - ~~—— (b) To add a new service option or service level which has not been previously included in the company's tariff.~~

WAC 480-70-221 Tariffs requiring one-day notice to the commission. The commission may approve on one-day notice:

- (a) Initial tariff filings that accompany applications for certificate authority, and
- (b) Adoption of tariffs filed under the provisions of WAC 480-70-266.

WAC 480-70-XXX Tariffs requiring seven-day notice to the commission. A company must provide at least seven-calendar-day notice to the commission on filings whose only purpose is:

- (a) To implement decreases in rates or charges; or
- (b) To add a new service option or service level which has not been previously included in the company's tariff.

NEW SECTION

WAC 480-70-XXX Tariffs requiring notice to the commission, to customers, and to other persons. A company must only notice its customers once, either before or after commission action, depending on the type of filing.

(1) Customer notice prior to commission action.

- (a) **Forty-five days' customer notice requirement.** A company must provide customer notice at least forty-five days before the requested effective date when a company proposes to:
 - (i) Increase recurring monthly rates;
 - (ii) File a general rate case;
 - (iii) Institute a charge for a service that was formerly provided without charge; or
 - (iv) Restrict access to services (e.g., discontinue a service, limit access to service by imposing a new usage level on existing services).

(b) **Who must receive notice.** A company must provide customer notice to the following:

- (i) Each customer that will be affected by the company's proposal;

- (ii) County commissioners in all counties where affected customers reside;
 - (iii) The ~~officials~~ senior officials of affected cities (i.e., mayor ~~and or~~ city council members manager); and
 - (iv) The public affairs section of the commission.
- (c) **Content of notice.** The customer notice must contain, at a minimum:
- (i) The date the notice is issued;
 - (ii) The company's name and address;
 - (iii) A clear explanation of the reasons for the rate change, using examples as needed, to give customers the basis for understanding the rate proposal and the impact of the change;
 - (iv) A comparison of current and proposed rates that, at a minimum, must include the following:
 - The minimum volume of service offered (i.e., mini can service);
 - Top five services in each customer class that have the highest percentage of customer usage (i.e., one-can, two-can, 1-yard, 2-yard, 3-yard, 20-yard, 30-yard, etc.);
 - How the rates will be billed (for example, monthly, bi-monthly or quarterly);
 - The notice rates must separate the cost(s) for recycling and yard waste services from the actual rate of the underlying service, if applicable;
 - A statement that if a service is not listed, but is affected by a company's proposal, how much of an increase, as proposed, using a range of percentage of increase (i.e., 5-10% increase) and how a customer can get more information for the services not listed in the notice;
 - (v) The requested effective and/or implementation date;
 - (vi) An explanation that the commission has authority to set final rates that may vary from the company's request, depending on the results of the commission investigation;
 - (vii) A description of how and where customers may contact the company toll-free if they have questions or need additional information about the proposal; and
 - (viii) Public involvement language: a company must chose either (A) or (B), below.
 - (A) All comments to the Commission must be submitted in writing or presented at the public meeting on this case. If you have questions or you would like to be added to the mailing list for this case, you may contact the Washington Utilities and Transportation Commission at P.O. Box 47250, Olympia, WA 98504-7250; 1-800-562-6150; comments@wutc.wa.gov; or 360-664-3604(fax).
 - (B) A company may use language of its own. The following information must be included if this option is chosen:
 - A brief explanation how to participate in the commission's process by attending an open meeting, writing a letter, e-mail or fax;
 - How to contact the commission for process questions or notification of the scheduled open meeting date; and
 - The commission's mailing address, voice and fax number, and e-mail address.
- (d) **Notice methods permitted.** Notice may be provided by bill insert, bill message, message printed on the back of the billing envelope, separate mailing, or by can tag.
- (2) **Customer notice after commission action.**

(a) **Notice Required.** Each affected customer must receive notice on or with the first bill after commission decision when a company increases rates for:

- (i) Non-recurring charges (e.g., late payment fees, NSF fees, etc.);
- (ii) Local taxes;
- (iii) Disposal fee increase;
- (iv) Fuel surcharges; and
- (v) Credits or refunds.

(b) **Who must receive notice.** In addition to each affected customer, a company must provide notice to the following:

- (i) County commissioners in all counties where affected customers reside;
- (ii) The ~~officials~~ senior officials of affected cities (i.e., mayor ~~and or city council members~~ manager); and
- (iii) The public affairs section of the commission.

(c) **Content of notice.** At a minimum, the notice provided after commission action must include:

- (i) The effective date;
- (ii) A clear description of changes to rates and services; and
- (ii) A toll free company contact number where customers may seek additional information.

(d) **Methods of notice permitted:** in addition to the methods permitted in subsection (1)(d), notice after commission action may be accomplished by publication in a company newsletter.

(3) **Commission assistance on customer notice.** The commission's public affairs section is available to assist companies with customer notice questions upon request. The public affairs section will also review and offer suggestions on draft customer notice language. If a company would like assistance the company must submit the notice for review at least one week before the planned notice printing date.

(4) **Other customer notice.** The commission may require notification to customers other than described in this rule when the effect of a company's proposal is such that there is a significant impact on customer rates, access to services, or when customer education is needed.

WAC 480-70-xxx Tariffs, less than statutory notice handling. The commission may allow tariff filings to become effective with less notice than is shown in Wac 480-70-xxx when there is an emergency or when merit is shown. This practice is known as less than statutory notice handling (LSN). A company filing for LSN handling may use an LSN form supplied by the commission or a letter containing the following:

(1) Company identification information:

(a) Company name and registered trade name;

(b) Company's certificate number;

(c) Company address;

(d) Company telephone number, e-mail address, and fax number; and

(e) Name and telephone number of a person to contact regarding the filing.

(2) Tariff identification information:

(a) Number of the tariff being amended;

(b) Identifying number and title of the tariff item(s) being amended; and

(c) Number of the tariff page being amended.

(3) Concise description of the provisions being proposed.

- (4) Reason(s) for requesting filing should be afforded LSN treatment; and
- (5) Effective date requested.

NEW SECTION

WAC 480-70-226 Tariffs, format and size requirements. A company must file tariffs:

(1) On forms available from the commission or on comparable forms approved by the commission.

(a) Tariffs submitted on forms other than those obtained from the commission must conform to the commission-prescribed item numbering format. For example:

<i>Subject the item addresses</i>	<i>Must be in tariff item number:</i>
Definition of terms	Item 20
Residential rates	Item 100
Disposal site rates	Item 230

(b) A complete list of item numbers is shown in the commission's tariff form.

(2) In loose-leaf format.

(3) That are typed or mechanically printed (not hand-written) using at least ten-point type.

(4) Printed on eight and one-half inch by eleven inch paper, with margins of at least one-half inch on each side.

NEW SECTION

WAC 480-70-231 Tariffs, changes must be identified. Each change in rates, charges, or rules must be clearly identified by using one of the of the following methods.

(1) By printing the appropriate code symbol immediately to the left of the material being changed. Approved symbols are:

Code Symbol	used to indicate:
(R)	reductions in rates or charges
(A)	increases in rates or charges
(C)	changes resulting in neither increases nor decreases
(N)	new rates, services or rules

(2) By printing a notice in distinctive type at the location defined in the following table:

If the changes affect:	The notation must state:	The notation must be printed:
All rates and charges on a tariff page or on a tariff supplement page	All rates and charges on this page are _____. Company would state in the blank the nature of the changes, one of following terms: <ul style="list-style-type: none"> •Increases •Decreases; or • wording changes resulting in neither increases or decreases. 	In the top margin of the page.
All rates and charges in a tariff.	All rates and charges on this page are _____. Company would state in the blank the nature of the changes, one of following terms: <ul style="list-style-type: none"> •Increases •Decreases; or • wording changes resulting in neither increases or decreases. 	In the top margin of each page.

NEW SECTION

WAC 480-70-236 Tariffs, title pages. The title page of every tariff must show at least the following:

- (a) The certificate name of the company, its certificate number and all trade names filed with the commission that are applicable to the tariff (Refer to WAC 480-70-071 for information on how to file trade names);
- (b) An identifying tariff number;
- (c) The number of any tariff(s) being canceled by the tariff to which the title page applies (canceling a tariff also cancels all supplements applying to that tariff);
- (d) The type of service(s) covered by the tariff;
- (e) A clear description of the territory in which the tariff applies;
- (f) The date the tariff is issued and date it becomes effective;
- (g) The name, title, telephone number, fax number (if any), and mailing address of the person who files the tariff; and
- (h) A box that is at least three-fourths of an inch in height, spans from margin to margin and is labeled "for official use only."

Illustration of tariff title page:

Tariff No. 2

Cancels

Tariff No. 1

of

John Doe's Sanitation Company, Inc.

d/b/a

John's Garbage and Recycle

Certificate No. 1999

Naming rates for the transportation and disposal of
solid waste and, if noted, recycling and yardwaste collection

In the following described territory:

Any County

Issued by:

John Jones, President

1234 East Easy Street

Olympia, WA 98501

Telephone: (360) 491-XXXX

Fax Number: (360) 491-XXXX

e-mail address: Johnjones@doesanitation.com

Issue date: January 1, 1999

Effective Date: February 20, 1999

For official use only

NEW SECTION

WAC 480-70-241 Tariffs, page format. All pages in a tariff, except the title page, must include the following:

- (1) A page header which includes:
 - (a) The identifying number of the tariff;
 - (b) A page number;
 - (c) A revision number;
 - (d) The name of the company filing the tariff, and
 - (e) Any applicable registered trade name.
- (2) A page footer which includes:
 - (a) The name of the person filing the tariff;

- (b) The date the page is issued;
- (c) The date the page becomes effective; and
- (d) A box that is at least three-fourths of an inch in height, spans from margin to margin and is labeled "for official use only."

Illustration of tariff page:

Tariff No. 2	2nd Revised Page 18
Company Name: John Doe's Sanitation Co., Inc. d/b/a John's Garbage and Recycle	
Issued by: John Jones, President	
Issue date: _____	Effective Date: _____
(For Official Use Only)	

NEW SECTION

WAC 480-70-246 Tariffs, maps. A company must file a map with its tariff that clearly identifies the entire certificate authority area. If a company divides its authorized certificate area into tariff service territories, then the company must also file a map showing each of the tariff service territory divisions. The maps must meet the specifications in WAC 480-70-046.

NEW SECTION

WAC 480-70-251 Tariffs, rules. (1) Tariff rules must be stated in clear language.

(2) A rule that applies to only a specific rate or charge must be included in the same tariff item as the applicable rate or charge.

NEW SECTION

WAC 480-70-256 Tariffs, changes. Companies may change filed tariffs by one of two methods:

(1) Issuing revised pages to the tariff. A revised page must have the same page number as the page it cancels. For example: "1st revised page 1" cancels "Original page 1."

(2) Issuing complete new tariffs. Each of the pages in a new tariff must be identified as an original page. For example: "Original Page 1," "Original Page 2," and so on.

NEW SECTION

WAC 480-70-261 Tariffs, supplements. (1) Companies may issue tariff supplements to reflect situations such as gas price fluctuations, city or county taxes, or county surcharges imposed under the provisions of RCW 36.58.045.

(2) Companies may not issue tariff supplements to address general rate increases.

(3) Supplements are subject to all applicable rules and procedures including transmittal letters, forty-five day notice to customers and the commission, and proper tariff format. The commission will provide sample tariff supplement forms on request.

(4) Supplements to a tariff must be numbered consecutively. If a newly filed supplement cancels a previous supplement(s), that information must be clearly shown on the new supplement. For example: "Supplement 6 cancels Supplements 4 and 5."

NEW SECTION

WAC 480-70-266 Tariffs, filings after name change or change in ownership. (1) When a company changes the name on its certificate it must file a tariff in the new name of the company or adopt the existing filed tariff.

(2) When a company leases, transfers, or acquires a portion of the certificate authority of another company it must file a new tariff reflecting the same rates as the prior company.

(3) When a company obtains operating control of another company it must file a new tariff at the same rate levels as the prior company or adopt the existing filed tariff of the prior company.

(4) A company filing a tariff to comply with paragraphs (1), (2) and (3) of this rule cannot raise rates in that filing. A separate rate increase filing must be made.

(5) To adopt existing filed tariffs, the company must file with the commission an adoption of tariff form, which must read as follows:

Illustration of adoption form:

Tariff No. _____

_____ adopts,
(Name of new company and registered trade name of new company)

all tariffs and supplements to the tariffs, filed with the Washington Utilities and
Transportation Commission by

(Insert here name of prior company)

before the date of its (new company) acquired possession of that (prior) company.

ISSUED BY:

(Printed name and title of person filing adoption notice)

(Mailing address of person filing adoption notice)

(Phone number) (Fax number)

Signature _____ Date Signed _____

NEW SECTION

WAC 480-70-271 Tariffs, filing procedures. (1) **Method of filing.** A company may submit tariff filings to the commission in person, by mail, or by fax. If a company files by fax, a hard copy must be mailed on the same day as the fax transmission.

(2) **Transmittal letter.** A company must file two copies of a transmittal letter with each tariff filing submitted to the commission. The commission will stamp one copy of the letter and return it to the company as acknowledgment the filing was received.

(a) The transmittal letter must include at least the following:

(i) The name, certificate number, and trade names of the company;

(ii) A description of each proposed change and a brief statement of the reason for each change;

(iii) The dollar and percentage amounts that revenue will change if the filing is approved by the commission;

(iv) The percentage amount that rates will change if approved by the commission.

(v) A contact person's name, mailing address, telephone number, fax number (if any), and e-mail address (if any);

(vi) A statement that the company mailed a copy of the transmittal letter to the chair of the county council of each county affected by the filing.

(b) The transmittal letter accompanying a filing that increases rates or charges must also include the date customer notice was mailed or delivered to all affected customers.

(3) **Additional documents required.** (a) **Filing due to governmental, or other entity, action.** If the tariff filing results from action of another entity or governmental body, the company must file documentation of that action. For example: ordinances, resolutions, and disposal site fee increase or decrease notices.

(b) **Tariff filed by agent.** If the tariff filing is made by a person other than an owner, partner or corporate officer, the company must include with its tariff filing a notice granting authority for that person to file on behalf of the company. The notice must be signed by an owner, partner or corporate officer and may be incorporated into the transmittal letter accompanying the filing.

NEW SECTION

WAC 480-70-276 Tariffs, approval. Receipt by the commission of a tariff filing does not imply that the provisions of the filing are approved. Companies may not implement provisions contained in tariff filings until the commission approves the filing or until the provisions become effective by operation of law.

NEW SECTION

WAC 480-70-281 Tariffs, free and reduced rates. (1) A company wishing to provide service at free and reduced rates under the provisions of RCW 81.28.080, must first publish those rates in its filed tariff.

(2) A company may publish free and reduced rates for collection services provided:

(a) To the United States, state, county, and municipal governments or municipal corporations;

(b) For charitable purposes; or

(c) To specific customer classes, as approved by the commission.

(3) If a company chooses to provide service at free or reduced rates, the company must publish in its tariff:

(a) The name of the customer or a detailed description of a customer class;

(b) The service provided; and

(c) The applicable rate(s), amount of reduction (such as, twenty percent), or if free, "\$0.00" or "no charge."

(4) The company's owners or stockholders are responsible for the revenue not collected by providing service at free or reduced rates. Ratepayers will not subsidize the revenue a company donates by providing service at free and reduced rates.

NEW SECTION

WAC 480-70-286 Pass through disposal fees. (1) A company must charge its customers the disposal fees contained in the company's lawfully filed tariffs applicable to the disposal site actually used for disposal and not that of any other site.

(2) A company must not charge its drop box customers disposal fees that exceed the actual cost to the company.

(3) It is a company's responsibility to track fees charged at any disposal sites used and to change its filed tariff as necessary to accurately reflect those fees.

NEW SECTION

WAC 480-70-291 Tariffs, suspension by the commission. (1) The commission may, on receiving a complaint or protest or on its own motion, suspend tariff rates, tariff charges, or tariff rules as provided in RCW 81.04.130.

(2) The commission will not take action to suspend a tariff, or any part of a tariff, based on a complaint or protest, unless the complaint or protest is filed in compliance with the commission's rules of practice and procedure (refer to WAC 480-09).

SECTION 8 - CONSUMER RULES

Discussion
Draft #3

NEW SECTION

WAC 480-70-296 Availability of information. (1) A company that provides traditional solid waste service must maintain a business office and must, at least once a year, notify its customers of its:

- (a) Regular business hours. Regular business hours must include at least four hours each day between 8:00 a.m. and 5:00 p.m Monday through Friday, excluding holidays;
 - (b) Toll free business telephone number; and
 - (c) Mailing address.
- (2) A company must have voice mail, an answering machine, or answering service to receive calls when company personnel are unavailable.
- (3) A company must respond to urgent messages within twenty-four hours and to all others within forty-eight hours.
- (4) A company must advise current customers of any change in address or telephone number at least ten days before the effective date.
- (5) A company must acknowledge and respond to a customer's written inquiry within two weeks of receipt.
- (6) A company must provide a copy of the commission's consumer brochure to each new applicant for service, and must once a year notify its current customers of the availability of the brochure and how to obtain a copy. A company may copy the commission's brochure and may add appropriate company-specific information.
- (7) A company must provide to each new applicant for service, and at least once a year to its current customers, a list, brochure, newsletter or similar document that ~~completely and clearly~~ describes:
- (a) All service options and service levels available to the customer; and
 - (b) Methods and programs available to recycle and reduce solid waste. This material must include reference to available local commercial recycling options. The material provided to customers may be comprised of materials approved or supplied by local government solid waste divisions or solid waste coordinators.
- (8) A company must make the following items available to customers for review at all times the company's business office is open. The company must notify its customers, either in the consumer brochure, a newsletter, or similar document that the items are available for customer review and state the location at which they are available for that review.
- (a) The solid waste rules, chapter 480-70 WAC;
 - (b) The company's current rates and regulations (tariff);
 - (c) The company's current certificate;
 - (d) The commission's consumer brochure; and
 - (e) A map of its service territory.

NEW SECTION

WAC 480-70-301 Refusal of service. (1) A company must not refuse service to an applicant or cancel service to a customer when there are unpaid bills from a prior customer at the same premises unless the company has objective evidence that the applicant is acting on behalf of the prior customer with the intent to avoid payment.

(2) A company may refuse service to an applicant or cancel service to a customer when:

(a) The customer has not complied with state, county, or municipal regulations concerning the service.

(b) In the company's judgment, providing the service would be hazardous, unsafe or dangerous to persons or property.

(c) In the company's judgment, driveways or roads are improperly constructed or maintained, do not have adequate turn arounds, or have other unsafe conditions.

(d) The customer has an overdue bill from the company for the same class of service at the same or a different location, and satisfactory arrangements for payment of the overdue unpaid bill have not been made. For purposes of this rule, class of service means residential service or commercial service.

(e) The customer requests service at a location where there currently resides a former customer who has an overdue bill from the company for the same class of service at the same location, and satisfactory arrangements for payment of the overdue bill have not been made.

(f) The customer has obtained or retained service from the company by fraudulent means, for the purpose of avoiding debts, including, but not limited to:

(i) False statement of credit references or employment;

(ii) False statement of present or prior premises address;

(iii) Use of an alias or false name; or

(iv) Rotation of service among roommates or persons living together.

NEW SECTION

WAC 480-70-306 Service cancellation, customer. A company may require that its customers give advance notice to cancel service, but may not require more than three business days' notice. A company may continue to bill for service at approved tariff rates until the company receives notice or until the company realizes that the customer has vacated the property.

NEW SECTION

WAC 480-70-311 Service cancellation, company. (1) **Reasons.** If a company has properly notified a customer as provided in paragraph (2) of this rule, the company may cancel a customer's service when:

(a) The customer:

- Has a delinquent bill (as defined in WAC 480-70-311);
- Fails to keep any agreed-upon payment arrangement;
- Abandons the premises;
- Violates rules, service agreements or approved tariffs; or

- Fails to comply with state, county, or municipal regulations concerning the service.
- (b) The company:
- Believes it would be hazardous, unsafe or dangerous to persons or property to provide service;
 - Believes that driveways or roads are improperly constructed or maintained, do not have adequate turn arounds, or have other unsafe conditions; or
 - Has evidence that the customer, for the purpose of avoiding debts, obtained service by fraudulent means.

(2) **Notice required.** A company is not required to notify a customer before cancellation if the cancellation is due to danger to life or property, fraudulent use, or violation of law requiring immediate cancellation. In all other instances, a company shall not cancel service until it meets the following notice requirements.

(a) Before a company cancels service it must provide two cancellation notices to the customer. The notices must meet the criteria shown in the following table:

The first notice:	The second notice:
<ol style="list-style-type: none"> 1. Must be mailed to the billing address. 2. Must contain at least the following: <ul style="list-style-type: none"> • A cancellation date and time. The date and time must be not less than eight business days after the date the notice is mailed if mailed in the state of Washington. The date and time must be not less than 11 business days if mailed from outside the state of Washington. • All pertinent information about the reason for the cancellation. • All pertinent information about how to correct the reason for cancellation. • The company's name, address and toll free telephone number to contact the company to discuss the pending cancellation. 3. The company must maintain a written record of all cancellation notices issued. 	<ol style="list-style-type: none"> 1. Must be made at least twenty-four hours before the cancellation date and time specified in the first required notice. 2. Must allow the customer until 5:00 p.m. of the following business day to comply. 3. Must be made by one of the following: <p>By telephone. A company must call the customer. If the company representative is unable to speak with the customer on the first attempt, at least one additional attempt must be made. If a customer has provided the company with a business or message telephone number, the second attempt may be made to that number.</p> <p>By personal delivery. A company providing notice by personal delivery must make at least one attempt to contact the customer. The company may make personal delivery notice by placing a written notice or tag on the customer's solid waste can, container or drop box.</p> 4. Must contain at least the following: <ul style="list-style-type: none"> • All pertinent information about the reason for the cancellation • All pertinent information about how to correct the reason for cancellation. • The company's name, address and toll free telephone number to contact the company to discuss the pending cancellation. 5. The company must maintain a record of attempts made to contact the customer. The record must show: <ul style="list-style-type: none"> • The telephone number called; • The date and time the call was made; and • The result of the call. For example: left a message, no answer, line busy, etc.

(3) **Notice expiration.** (a) **No mutually-agreed-upon arrangements.** Cancellation notices expire ten business days after the first day that the company may discontinue service. If the company does not cancel service with ten business days, the notice process must start over.

(b) **Mutually-agreed-upon arrangements made.** Cancellation notices do not expire if agreed-upon arrangements have been made and confirmed in writing by the company. A company

may cancel service without further notice if the customer fails to keep the mutually-agreed-upon arrangements.

(4) **No cancellation while customer is pursuing a dispute.** If the customer pays all undisputed amounts when due and corrects any conditions posing a danger to health, safety or property, a company must not cancel service while:

- (a) The customer is pursuing any remedy or appeal provided by these rules;
- (b) The customer is attempting to resolve a complaint with the company's representatives;

or

(c) The customer is attempting to resolve a complaint with the commission's consumer affairs section staff.

NEW SECTION

WAC 480-70-316 Reinstatement of service following cancellation. A company must reinstate service on the next scheduled pick up date when:

- (a) The responsible party corrects the causes of cancellation;
- (b) The customer pays all proper charges due or makes satisfactory payment arrangements;

or

(c) The commission or its staff directs reinstatement pending resolution of a dispute.

NEW SECTION

WAC 480-70-321 Complaints. (1) Company responsibility.

(a) **Complaints from customer.** When a company receives a complaint from a customer or an applicant for service it must:

- (i) Acknowledge the complaint;
- (ii) Investigate promptly;
- (iii) Report the results of the investigation to the complainant;
- (iv) Take corrective action, if warranted, as soon as appropriate under the circumstances;
- (v) Inform the complainant that the decision may be appealed to a higher level

representative at the company, if any;

(vi) Inform the complainant, if still dissatisfied after speaking with the higher level representative, of the commission's availability for review of the complaint; and

(vii) Provide the complainant with the commission's address and toll-free telephone number.

(b) **Complaint referred by commission.** When commission consumer affairs staff refer an informal complaint to the company, the company must:

(i) Investigate and report the results to the commission consumer affairs staff within two business days (the commission consumer affairs staff may grant an extension of time for responding to the complaint);

(ii) Keep the commission consumer affairs staff informed of progress toward the solution; and

(iii) Inform the commission consumer affairs staff of the final result.

(c) **Complaint record.** A company must keep a record of all complaints concerning service or rates for at least one year. The record of complaints and rates must be made readily available for commission review. The record must contain:

- (i) The complainant’s name and address;
- (ii) Date and nature of the complaint;
- (iii) Action taken; and
- (iv) Final result.

(2) **Complaints to commission.** Applicants, customers, or their representatives may file with the commission either:

- (a) An informal complaint against the company (Refer to WAC 480-09-150) or
- (b) A formal complaint against the company (Refer to WAC 480-09-500).

NEW SECTION

WAC 480-70-XXX Credits as compensation in consumer complaints or problems.

Companies may offer customers credits for:

- (1) A missed collection, regardless of the reason the collection was missed; or
- (2) As compensation for service quality problems, billing problems, or other problems experienced by the customer.

NEW SECTION

WAC 480-70-326 Billing. (1) **Billing period.** A company may bill its customers for one, two, or three months of service.

(2) **Advance billing and payment delinquency dates.** The following chart defines the maximum period allowed for advance billing and the date when a bill may be considered delinquent:

Billing period	Maximum advance billing period allowed	Delinquency date
One months’ service (monthly)	No advance billing allowed	May not be less than twenty-one days after the date the bill is mailed
Two months’ service	One month advanced billing allowed	May not be until the first day after the end of the billing period
Three months’ service	Two months’ advance billing allowed	May not be until the first day after the end of the billing period

(2) Bills issued to customers must clearly show the company's name and applicable registered trade name, business address, and toll free telephone number where a customer may contact the company. Bills must also show at least the following:

- (a) Account information including:
 - (i) The customer’s name, service address, and billing address;

- (ii) Company customer identification number, if any;
- (iii) The billing period;
- (iv) The date the bill was mailed;
- (v) The date payment is due; and
- (vi) The date the bill becomes delinquent;
- (b) The following rate information:
 - (i) The percentage amount or minimum charge for late payments (may not exceed one percent of the unpaid balance or \$1.00, whichever is less);
 - (ii) All rates or charges billed the customer, shown as separate line items on the bill (for example: service and size of container; yardwaste service and size of container; recycling service and recycling commodity adjustment);
 - (iii) Other tariffed services (for example: drive in charges, carry out charges, and occasional extras); and
 - (iv) Percentage rate and dollar amount of any government tax or fee imposed on the company and passed on directly to customers.
- (c) Other information as may be directed by the Commission.
- (3) If a customer initiates or terminates solid waste service within a month, monthly rates and charges must be prorated based on the number of pick ups actually provided.
- (4) The commission may allow consolidated billing for regulated and non-regulated activities.
 - (a) A consolidated billing must:
 - (i) Disclose non-regulated activity as a separate line item; and
 - (ii) Include a telephone number where the customer may contact the company providing the non-regulated activity.
 - (b) If a customer remits partial payment, a company must apply payment to solid waste charges first.
 - (c) A company may not discontinue solid waste service if the customer does not pay for non-regulated services but has paid in full for regulated solid waste service.

NEW SECTION

WAC 480-70-331 Payment options. A company may accept payment by cash, money order, personal check, certified check, debit card, or credit card.

NEW SECTION

WAC 480-70-336 Refunds. (1) When there has been a transaction which results in a credit being due the customer the following apply:

- (a) If the amount due is five dollars or less, an adjustment must be shown on the next regular bill.
- (b) If the amount due is more than five dollars, the customer may accept an adjustment to the account or request a refund. If the customer elects to have an adjustment made, it must show on the next regular billing. If the customer chooses to receive a refund, the company must issue a check within thirty days of the request.

(2) **Overcharges.** Once a company becomes aware that it has overcharged a customer, it must provide a refund or bill adjustment credit to the customer. The customer must be given a choice as to which option is preferred. The refund of credit must be the amount overcharged in the three years before the date of discovery.

(3) **Prepayments.** If a customer has paid service fees in advance, service is discontinued during the pre-billed period, and the customer is due a refund, the following apply:

(a) A company must honor all requests for refunds of the unused portion of prepayments.

(b) If the customer provides a forwarding address to the company or one can be obtained from the Post Office the company must issue a refund check no more than thirty days following the customer's request.

(c) If the customer cannot be located or did not provide a forwarding address and the U. S. Post Office cannot furnish a forwarding address, the amount may be presumed to be abandoned and is subject to the Uniform Unclaimed Property Act after one year.

NEW SECTION

WAC 480-70-341 Establishing credit and deposits. Deposits guarantee payment for the final billing period plus one month. Prepayments made to secure temporary drop box service are not subject to the provisions of this rule. Refer to WAC 480-70-341 for requirements related to prepayments.

(1) **Establishing credit - residential service.** A company must not collect a security deposit if an applicant for residential service can establish satisfactory credit by any one of the following:

(a) The applicant had prior service with the company or another solid waste collection company for at least six of the twelve months before the application date and:

- Service was not canceled for nonpayment;
- The customer received no more than one delinquency notice; and
- References with the other company may be quickly and easily checked. A company may request that the references from the previous company be in writing.

(b) The applicant had full-time consecutive employment during the prior twelve months with no more than two employers and is currently employed or has a regular source of income.

(c) The applicant owns or has a legal interest in the premises being served.

(d) The applicant can furnish a satisfactory guarantor who will be responsible for payment of solid waste bills in the event of cancellation or default by the customer, in a specified amount, not to exceed the amount of the required cash deposit required.

(e) The applicant personally produces at the company's business office, two major credit cards or other credit references, that the company may quickly and easily check, that demonstrate a satisfactory payment history.

(2) **Establishing credit - commercial service.** An applicant for commercial service may be required to demonstrate that it is a satisfactory credit risk by reasonable means appropriate under the circumstances.

(3) **Deposit requirements.** A company may require a deposit when:

- The applicant has failed to establish a satisfactory credit history as outlined in paragraphs (1) and (2) of this rule;

- The applicant’s service from another solid waste company was canceled for failure to pay amounts owing when due during the twelve months before the application date;
- The applicant has an unpaid, overdue balance owing for similar service from the solid waste company to which application is being made or from any other solid waste company;
- Two or more delinquency notices have been served on the applicant by any solid waste company during the prior twelve months; and
- The application is to begin or continue service to a residence where a prior customer still lives and owes a past due bill to the solid waste company.

(4) **Amount of deposit.** Required deposits for a customer or location must not exceed:

Company billing period:	Maximum deposit amount allowed:
Monthly	Two-twelfths of the estimated annual billing
Bi-monthly	Three-twelfths of the estimated annual billing
Tri-monthly (quarterly)	Four-twelfths of the estimated annual billing.

(5) **Transfer of deposit.** When a customer moves to a new address in the company’s service territory, the deposit, less any outstanding past-due balance owing from the old address, must be transferable.

(6) **Interest on deposits.** Interest on deposits collected from applicants or customers must:

(a) Accrue at the rate calculated as a simple average of the effective interest rate for new issues of one-year treasury bills, computed from December 1 of each year, continuing through November 30 of the following year. The commission will annually mail a notice to solid waste collection companies advising them of the specific rate.

(b) Earn the calculated interest rate during January 1 through December 31 of the subsequent year.

(c) Be computed from the time of deposit and compounded annually.

(7) **Extended payment arrangement of deposits.** When an applicant or customer is required to pay a deposit but is unable to pay the entire deposit in advance of starting or continuing service, the company must allow the applicant or customer to pay on the following schedule:

- Fifty percent of the deposit must be paid before service;
- Twenty-five percent must be paid in each of the next two months.

(8) **Receipt for deposit.** A company must furnish a receipt to each applicant or customer for the amount deposited.

(9) **Refund of deposits required.** A company must refund deposits plus accrued interest when there has been satisfactory payment or service is terminated.

(a) **"Satisfactory payment"** means a customer has paid for service for twelve consecutive months in a prompt and satisfactory manner as evidenced by the following:

- The company has not started a cancellation process against the customer; and
- The company has issued no more than two notices of delinquency to the customer.

(b) **Termination of service.** When service is canceled, the company must return to the customer the amount then on deposit plus accrued interest, less any amounts due to the company.

(10) **Refund of deposits manner.** A company must refund any deposit, plus accrued interest, in the manner indicated by the customer at the time of deposit, or as modified on a later date. The customer must indicate one of the following methods:

(a) A check issued and mailed to the customer no later than fifteen days following completion of twelve months of satisfactory payment as described above; or

(b) A credit applied to the customer's account for service beginning in the 13th month.

(11) **Additional deposit.** Nothing in this rule prevents the requirement of a larger deposit or a new deposit when conditions warrant. A company requiring a new or larger deposit must specify the reasons in writing to the customer. Any requirement for a new or larger deposit must comply with the standards in this rule.

NEW SECTION

WAC 480-70-346 Prepayments, temporary drop box service. A company may require that before providing temporary commercial service customers prepay either:

(1) An amount not exceeding the estimated total due for delivery of the drop box, plus rent for the first month, plus pickup charges and disposal fees for one month; or

(2) Fifty percent of the estimated total that will apply over the length of the service agreement.

NEW SECTION

WAC 480-70-351 Fair use of customer information. (1) Customer information includes the customer's name, address, telephone number, service level, credit and deposit information, and billing history.

(2) Companies must use customer information only for:

(a) Providing and billing for services the customer requests;

(b) Marketing new services or options to its customers; or

(c) Providing information to its customers.

(3) Any sale or release of customer information without the written permission of the customer is prohibited. The only exception to this rule is release of information to the commission to investigate or resolve complaints filed by a customer with the commission.

(4) Companies are allowed to collect and release customer information in aggregate form if the aggregated information does not allow any specific customer to be identified.

SECTION 9 - BIOMEDICAL WASTE RULES

NEW SECTION

WAC 480-70-356 Purpose. It is a matter of state-wide concern that biomedical waste be handled in a manner that protects the health, safety, and welfare of the public, the environment, and the workers who handle the waste.

NEW SECTION

WAC 480-70-361 Adoption of federal regulations. (1) Companies transporting either hazardous waste or biomedical waste must comply with all federal, state and local laws and rules governing such transportation. Companies must also comply with Parts 170 through 189 of Title 49, Code of Federal Regulations (49 CFR) which are adopted by reference.

(2) Any company transporting waste, which meets either federal or state criteria as hazardous waste or biomedical waste, must handle and transport that waste according to the appropriate requirements of the federal hazardous materials regulations and the additional requirements in these rules.

NEW SECTION

WAC 480-70-366 Operational requirements, biomedical waste. (1) A company collecting, transporting and disposing of biomedical waste as defined in WAC 480-70-026, must prepare and maintain a biomedical waste operating plan.

(2) A company must keep the biomedical waste operating plan:

(a) On file in the company's main office; and

(b) A copy must be carried in each motor vehicle used in transportation of biomedical waste.

(3) The biomedical waste operating plan must include provisions ensuring that:

(a) Biomedical waste is kept separate from any other solid waste until treatment or disposal;

(b) Only authorized and properly trained persons collect, transport, and dispose of biomedical waste;

(c) Unauthorized persons are prevented from having access to, or contact with, biomedical waste;

(d) Any motor vehicle used to collect, transport or dispose of biomedical waste is properly decontaminated;

(e) Employees are provided and required to use clean gloves and uniforms, and any other necessary protective clothing when collecting, transporting, and disposing of biomedical waste; and

(f) Appropriate methods are available to decontaminate any person exposed to biomedical waste during collection, transportation, and disposal.

(3) The biomedical waste operating plan must also include alternative storage, treatment and disposal sites in case of an accident.

NEW SECTION

WAC 480-70-371 Training requirements, biomedical waste. (1) Any person involved in collection, transportation, and disposal of biomedical waste must be adequately trained. A company involved in collection, transportation, and disposal of biomedical waste must:

- (a) Develop, publish and maintain an employee training plan;
- (b) Ensure that company employees are properly trained; and
- (c) Certify that company employees are properly trained;.

(2) The employee training plan must be kept on file in the company's main office, available for inspection by the commission, its authorized representatives, and customers.

(3) The employee training plan must include the following training elements:

- (a) Safe operation of motor vehicles and motor vehicle equipment inspection procedures;
- (b) Safe collection, transport and disposal of biomedical waste;
- (c) Information on health risks associated with the collection, transport and disposal of biomedical waste;
- (d) Emergency procedures for spills of biomedical waste, rupture of containers, and equipment failure;
- (e) Notification procedures following a biomedical waste spill or repackaging of biomedical waste;
- (f) Packaging and labeling requirements;
- (g) Personal hygiene practices;
- (h) Use of protective clothing and equipment;
- (i) Contamination control procedures for vehicles and equipment; and
- (j) Shipping paper requirements.

(3) A company must maintain a file of certificates on each person trained. The form for the certificate of employee training is:

CERTIFICATE OF EMPLOYEE TRAINING	
Name of Carrier: _____	
Driver's Name: _____	
Operator's Driver's CDL/License No.: _____	
Dates of Training: _____	
Signature of driver acknowledging completion of training program:	
Driver: _____	Date: _____
I certify by my signature below that the employee named above received training in proper collection, transportation, and disposal of biomedical waste:	
Signature/Title: _____	Date: _____

NEW SECTION

WAC 480-70-376 Cooperative agreements. The commission may enter into cooperative agreements with other state or local agencies, such as the department of labor and industries or the department of health, to review biomedical waste operating or training plans for compliance.

NEW SECTION

WAC 480-70-381 Packaging and containment, biomedical waste. (1) Biomedical waste, except for sharps waste (refer to paragraph 2 of this rule), must be contained in bags or lined containers that are impervious to moisture and that will not rip, tear, leak, or burst under normal conditions of transportation. If bags are used, they must be properly secured to prevent leakage during handling and transportation.

(2) Containers used for sharps waste (refer to WAC 480-70-026) must:

- (a) Be impervious to moisture;
- (b) Not rip, tear, leak, or burst under normal conditions of transportation;
- (c) Be rigid and puncture-resistant; and
- (d) Be labeled with the word "biomedical."

(3) A company transporting biomedical waste contained in bags or disposable containers must place the bags or disposable containers inside tightly-covered pails, cartons, drums, or portable bins. The containment system, which may be any color, must be:

- (a) Leak-resistant;
- (b) In good repair; and
- (c) Labeled with the word "biomedical."

(4) Reusable containers for biomedical waste must be thoroughly washed and decontaminated each time they are emptied.

(5) Packaging and containment marked or labeled as containing biomedical waste may not be used to ship or transport waste that does not meet the definition of biomedical waste.

NEW SECTION

WAC 480-70-386 Transfer of biomedical waste to off-site treatment and disposal facilities. A company must transport biomedical waste to a facility that meets all local, state, and federal environmental regulations for treatment, storage, and disposal.

NEW SECTION

WAC 480-70-391 Compaction not allowed, biomedical waste. A company must not compact biomedical waste ~~before it is treated~~ or any material in a container labeled as containing biomedical waste.

NEW SECTION

WAC 480-70-396 Vehicle requirements, biomedical waste. (1) A company that transports biomedical waste must ensure that all motor vehicles used to transport biomedical waste is equipped with cargo compartments that:

- (a) Can be secured to limit access at all times, except by company personnel during loading and unloading;
 - (b) Are fully-enclosed;
 - (c) Are leak-proof;
 - (d) Are made of non-porous material impervious to biomedical waste; and
 - (e) Are physically separated from the driver's compartment.
- (2) A company may substitute a motor vehicle with a detachable cargo box that meets all the requirements of paragraph (1).

NEW SECTION

WAC 480-70-401 Shipping paper requirements, biomedical waste. (1) A company collecting or transporting biomedical waste must issue a shipping paper for each shipment transported. The shipping paper must comply with the requirements ~~detailed in~~ of 49 CFR Part 172. The shipping paper must contain at least the following information:

- (a) Name and address of the generator of the biomedical waste;
- (b) Name of the person representing the generator from whom delivery is accepted;
- (c) Name of the company transporting the biomedical waste;
- (d) Date and time of collection;
- (e) Destination, naming final treatment, storage and disposal destination;
- (f) The general type and quantity of biomedical waste collected by the company;
- (g) A signature by a representative of the generator of biomedical waste, acknowledging delivery and compliance with all applicable federal, state and local rules regarding packaging and containment; and
- (h) A signature by a representative of the company transporting the biomedical waste, acknowledging receipt.

(2) A legible copy of the shipping paper must accompany the shipment. At the destination, the shipping paper shall be signed by a representative of the facility accepting the biomedical waste for treatment, storage or disposal, acknowledging acceptance.

(3) A copy of the shipping paper of each shipment must be kept on file by the company at its main office for three years. The shipping paper must be available for inspection by the commission or its authorized representatives.

NEW SECTION

WAC 480-70-406 Inspections, biomedical waste. (1) Any shipment of waste meeting the criteria for biomedical waste is subject to inspection by commission staff and by those state, county, and local government personnel charged with the enforcement of laws and ordinances relating to the transport of biomedical waste.

(2) All companies that transport biomedical waste must give authorized persons, as defined in paragraph (1) of this rule, a reasonable opportunity to inspect ~~freight~~ containers and motor

vehicles, to review shipping papers, and to inspect other places incidental to the transportation of biomedical waste.

SECTION 10 - HAZARDOUS WASTE RULES

WAC 480-70-411 Purpose. The purpose of the rules in this section is to protect the public health and safety and the welfare of the public and the environment through using regulatory requirements to properly manage hazardous waste and reduce public exposure.

NEW SECTION

WAC 480-70-416 Adoption of federal regulations. (1) Companies transporting r hazardous waste must comply with all federal, state and local laws and rules governing such transportation. Companies must also comply with Parts 170 through 189 of Title 49, Code of Federal Regulations (49 CFR) which are adopted by reference.

(2) Any company transporting waste, which meets either federal or state criteria as hazardous waste must handle and transport that waste according to the appropriate requirements of the federal hazardous materials regulations and the additional requirements in these rules.

SOLID WASTE BUSINESS PRACTICES COMPLIANCE PLAN

Draft

March 2, 2000
Regulatory Services Division
Washington Utilities and Transportation Commission

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SOLID WASTE BUSINESS PRACTICES COMPLIANCE PLAN

This Solid Waste Compliance Plan is established to clearly define the Commission's Business Practices Compliance Program under the Solid Waste Rules that became effective XXXXXX. The plan includes an analysis of how to secure compliance while using the Commission's limited staff resources in the most effective manner. This plan is a working document for the Regulatory Services Division and does not include processes or procedures for routine investigations or assignments.

The strategies of the plan are:

- ▶ Assist companies in obtaining compliance with the rules.
- ▶ Define compliance and administrative action processes and procedures.
- ▶ Provide on-going technical assistance and training to new entrants and current certificate holders.
- ▶ Establish compliance processes that effectively and efficiently use staff resources.
- ▶ Promptly initiate, accurately document, and track all administrative actions through all processes to final conclusion.

Solid Waste Business Practices Compliance Overview

The mission of the Solid Waste Business Practices Compliance Plan is to clearly define the Commission's compliance program under the new Solid Waste rules which became effective XXXXXX.

The strategies used in designing the compliance plan are:

Assist companies in complying with the rules.

The goal for this compliance plan is to ensure that companies providing solid waste collection service operate in compliance with applicable laws and rules. To achieve this goal, staff resources should be focused on assisting companies in understanding the applicable laws and rules.

Define compliance and administrative action processes and procedures.

To provide a consistent approach to compliance activities it is essential for staff to have a clearly defined process for each type of procedure.

Provide on-going technical assistance and training to new entrants and current certificate holders.

The success of the companies under regulation is critical to public health, the industry and to the consumers who use their services. This compliance plan outlines how staff will be available to give training classes, provide individual technical assistance, assist in the application process, and continue to maintain a relationship with the company after a certificate is acquired. Technical assistance must also be provided prior to initiating an administrative or enforcement action.

Establish compliance processes that effectively and efficiently use staff resources.

While in the past only Investigators performed compliance activities, it makes more effective and efficient use of staff resources if some compliance activities are performed by administrative staff. Those activities include contacting non-certificated companies and explaining rules and regulations and tracking follow-through to ensure companies obtain certificates; checking, monitoring and following through on illegal advertisements; and, monitoring suspended or canceled companies for activity.

Promptly initiate, accurately document and track all administrative actions through all processes to final conclusion.

When staff provides technical assistance and other compliance information and the companies still fails to comply, there must be a specifically defined method of taking swift, complete and clearly defined enforcement actions.

Solid Waste Business Practices Compliance Plan Strategies

The following six compliance strategies are identified as the most significant in terms of fulfilling the mission of the plan and following the guidelines for obtaining compliance and the efficient use of staff resources.

Non-Certificated Companies

When information is received that a company is operating, or is advertising to operate, as a solid waste company, staff will initiate a contact with the company to provide information and technical assistance regarding the Commission rules. If the company applies for a certificate, staff will continue to give assistance to the company. If the company does not apply for a certificate and staff receives information that the company is continuing to operate in violation of the rules, an investigation will be initiated to gather evidence to take the company to a classification hearing. If as a result of the hearing the company is classified as a solid waste collection company it may be issued an order to cease and desist. If the company continues to operate, the cease and desist order will be enforced through court by obtaining an injunction against the company.

Solid Waste Temporary Certificate Process

Staff will provide technical support to each new entrant that is granted a temporary certificate to operate. Staff will give training, answer questions, review records, and ensure that the company knows and understands the rules and regulations for operating under a solid waste certificate.

Non-compliance with Rates, Authority, Business Practices

Regulatory Services Division staff will monitor company activities from various sources such as consumer or industry complaints, annual reports, or economic checklist information gathered during a routine audit of the company.

If there appears to be a pattern of violations found, the company will be given technical assistance, or if more training is required may instruct the company to attend a Commission-sponsored training session. If the company has previously been given technical assistance, an investigation will be initiated to document the company's violations.

Depending on the outcome of the investigation, staff may recommend that some form of administrative action be taken, including warning letters, penalty assessments, or suspension or cancellation of the operating authority.

Suspended or Canceled Certificates

Part of compliance is ensuring that if a company's certificate is suspended or canceled, that the company ceases operations. The initial compliance role is to assist the companies in correcting the issues leading to the suspension or obtaining a certificate again after cancellation. Staff will monitor the company during the suspension or cancellation and if information is received that the company has continued operations an investigation will be initiated. If the investigation determines that the company has operated, staff will recommend that either the company is issued a citation, monetary penalty, cancellation of a suspended certificate, or other administrative actions.

Coordination with Other Jurisdictions and Industry

Assistance from and cooperation with other jurisdictions and the solid waste industry will assist the Commission is obtaining compliance by partnering with all segments of the population that are affected by solid waste collection companies.

The compliance plan will be four part:

1 - Targeting - identify an area where compliance activities would be the most beneficial. The area may be determined based on complaints, industry information, or information from investigators or other jurisdictions.

2 - Identification - obtain as much information as possible about the companies working in the area, i.e. Washington Refuse and Recycling Association (WRRRA), Internet, phone books, Nickel Want ads, newspapers, Commission's certificate and Compliance databases.

3 - Cooperation - work with WRRRA, its members and local jurisdictions to solicit input and assistance, in a targeted area, in identifying non-compliant companies.

4 - Education - staff will work with the local prosecutor in the area to provide education on transportation regulations, including classification hearings and cease and desist orders. Staff will also partner with the WRRRA to educate local community organizations about solid waste regulations and potential harm to the public from illegal solid waste collection companies.

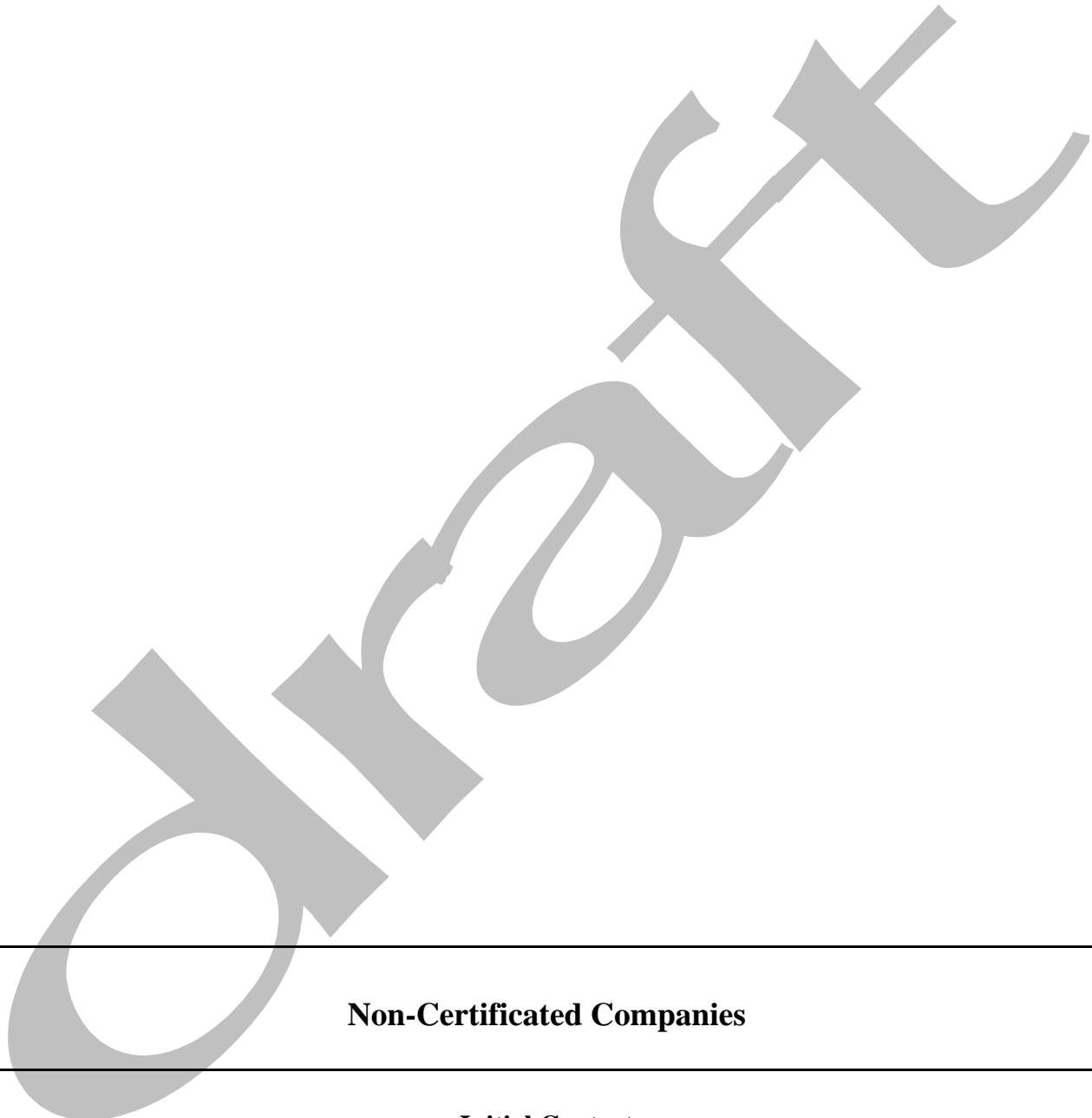
All companies identified as illegal companies in the targeted area will go through the illegal companies process discussed in this plan.

Processes to Implement Strategies

The following sections of this report outline the detail of the processes used to track or obtain compliance by Regulatory Services Division staff. The strategy processes include:

- ▶ Non-Certificated Companies

- ▶ Temporary Certificate Process
- ▶ Non-Compliance with Rates, Authority, and Business Practices
- ▶ Suspended or Canceled Companies
- ▶ Coordination with Other Jurisdictions and the Industry



Non-Certificated Companies

Initial Contact

When the Commission receives information about a company providing solid waste collection services and it is determined the company does not have a certificate, staff will:

- 1 - If a phone number is available, contact the company by phone and inform them of the Commission rules and regulations, and send the information packet outlined below.

or,

2- If they cannot be contacted by phone and an address is available, staff will send out the following information packet, return receipt requested:

a letter (see Forms Addendum) explaining that the Commission has received information that they were conducting (or advertising for) solid waste collection, the name of a staff person to contact for further information or to answer any questions, what they need to do in order to comply, and the amount of time they have to apply for authority,

- application forms
- fact sheets (Overview, Motor Carrier Overview, Insurance)
- safety book
- solid waste rulebook
- RCW 81.77

This process needs to be completed immediately after the information is received about the company and at the same time recorded in the Compliance Database under an assignment number.

Follow-up:

Staff will make a follow-up call to the company half-way through the time period given to the company to apply. The call will consist of offering additional educational assistance, if needed, and answering any questions the company may have. A reminder at this time will be given as to the length of time left to apply, as well as consequences if the carrier does not apply and continues to operate. This communication will also be tracked in the Compliance Database.

If the company does not respond by the date given, a second letter (see Forms Addendum) will be sent to the company. If the company still does not reply, and staff has enough information to warrant further investigation, investigative staff will be assigned to collect information on the company's illegal activities so the Commission can proceed with a classification hearing and a cease and desist order. (SEE: Penalty Procedure or Classification Hearings)

Solid Waste Temporary Certificate Process

When an application is received it is routed to a Regulatory Services Division application specialist. The specialist reviews the application for completeness. The application review process includes verifying each portion of the application including the structure of the business; reviewing the financial information, equipment list, and the applicant's experience in the industry. Staff also ensures that the parties responsible for both operational and safety requirements (including driver qualifications, drug and alcohol testing and training, vehicle maintenance and insurance) are listed on

the application. The specialist assigns the application a number and enters appropriate information in the Transportation Permit System database.

Staff will coordinate all information the Commission may have about the applicant, including complaints, enforcement or administrative actions, and activities under previous certificates, and determine if any special conditions should be placed upon the applicant if the temporary authority is granted. Staff will determine whether to recommend that the application be granted or denied. At the same time staff will make a determination on which staff member should be assigned to the carrier to provide technical assistance during the temporary certificate period, if granted. An assignment number for the company is assigned at this time in the compliance database so that all actions regarding the company taken by the Investigator or other staff can be tracked in the database.

Staff completes a summary of all comments received and drafts a recommendation as to how or if authority should be granted. The recommendation will include any conditions or changes to the original authority requested. The application and recommendation are given to the Deputy Director to review. The Deputy Director signs off by either agreeing or disagreeing with recommendation and the application is given back to the specialist.

Division staff then verifies that a proper tariff and all other certificate requirements have been met including insurance, verification that accounts have been established with other agencies (e.g. L&I, Employment Security, Revenue, Secretary of State), and that the equipment has passed the CVSA qualifying inspection. Staff then coordinates with Support Services to have the order and certificate printed. Before service of these documents, staff determines which staff person has been assigned to the company.

The order, certificate, and staff introduction letter with the Investigator's or other staff's business card are served on the applicant.

Upon issuance of the temporary an investigator (or other staff) will be assigned to the company. An assignment number will be issued at the same time. A letter will be sent to the company with its certificate introducing the investigator and giving contact information should the company need assistance. The investigator becomes the contact/point person for the company, helping to ensure that the company is successful during the temporary period. The investigator will keep track of any contact he/she has with the company, including, but not limited to, any training provided. All contacts made by the investigator will be recorded under an assignment number for the company in the compliance database.

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Non-compliance with Rates, Authority, Business Practices

The Regulatory Services Division staff will monitor the activities of certificated companies to identify areas where companies may be in non-compliance. Sources for targeting companies for further investigation may include (but are not limited to):

- WUTC company to company or consumer complaints - numbers and types
- annual reports
- insurance - notices of cancellation/reinstatements

- checklist information gathered during a routine audit of the company
- Office of the Attorney General Consumer Protection Division referrals or complaints
- WSP accident/inspection information
- information or complaints from a city or county waste management program

If a pattern of issues or non-compliance violations is found, the company will be contacted, the issues or areas of concern will be discussed and the company will be given technical assistance. If more training or assistance is required, the Commission will arrange for additional training or may instruct the company to attend a Commission-sponsored training session.

If the company has been given technical assistance previously and there is a continuing pattern of violation, then an investigation will be initiated to document the company's non-compliance.

Depending on the outcome of the investigation, number of violations found, staff may recommend that some form of administrative action be taken, including warning letters, penalty assessments, or suspension or cancellation of the operating authority.

Suspended or Canceled Certificates

Part of compliance is ensuring that if a company's certificate is suspended or canceled, that the company cease operations. The initial compliance role is to assist companies in correcting the issues leading to the suspension or obtaining a certificate again after cancellation. Staff will monitor the company during the suspension or cancellation and if information is received that the company has continued operations an investigation will be initiated. If the investigation determines that the company has operated, staff will recommend that the company be issued a citation, receive a monetary penalty, cancel a suspended certificate, or other administrative actions.

Processes for monitoring certificate suspension or cancellation:

- All suspension and cancellation notices are sent by certified mail. If the certificate holder or an official or employee of the company signs for the mail, notice has officially been given.

Mail returned without signature should be followed up on to attempt to contact the company directly.

Orders will clearly state that work must stop during period of suspension or cancellation. An application packet will be sent with the cancellation order to assist the carrier in reinstating its authority.

Two weeks into the suspension period staff will contact the company to give technical assist in complying with order, answering questions, and ensuring that the company is fully aware that they must cease operations.

- Initiate an investigation if a complaint is received about a company working during a suspension or cancellation period. Administratively, the company will be contacted about the alleged activity.
- Coordinate Investigator activity so if an Investigator will be in an area where a canceled carrier is located, the Investigator may check to see if the carrier has stopped its operations.
- Monitor records for indications that a canceled carrier is continuing to operate, e.g. if new insurance is filed. Staff may also check with other agencies to see if operations appear to be continuing, e.g. WSP, L&I.
- Initiate an administrative action if, after the company has been given technical assistance, an investigation reveals they have continued to operate. This could be the writing of a citation, warning, penalty assessment, or other administrative sanction.

Coordination with Other Jurisdictions and Industry

Assistance from and cooperation with other jurisdictions and the solid waste industry will assist the Commission in obtaining compliance by partnering with all segments of the population that are affected by solid waste collection companies.

The implementation of this compliance plan will consist of four parts:

- **Targeting a Specific Area for Emphasis**

Targeting means that staff would identify an area where an emphasis on illegal activities would be the most beneficial. The area may be determined based on:

Number or types of complaints generated in the area
Industry information about illegal companies
Investigator or other jurisdiction information such as the State Patrol

■ **Identification of Illegal Companies**

Identification means obtaining as much information as possible about the companies working in the area. Sources of that information will be the WRRRA, Internet, phone books, Nickel Want ads, newspapers, Commission's certificate and Compliance databases.

■ **Cooperation with Industry and Other Jurisdictions**

Cooperation means working with WRRRA and its members and the local jurisdictions to solicit input and assistance in identifying non-compliance companies.

■ **Education of Other Jurisdictions**

Education means that staff would work with the local prosecutor in the identified area to educate them on transportation regulations, including classification hearings and cease and desist orders. Staff would also partner with the WRRRA to educate local community organizations about solid waste regulations and potential harm to the public from illegal movers.

Administrative Proceedings

The following three sections of this report outline the detail of the processes when the Commission takes a hearing or court action against a non-certificated carrier. The administrative processes include:

- Classification Hearing
- Penalty Assessment and Cease and Desist Order
- Superior Court Injunction

Classification Hearing

If the Commission has information that a company is operating a business that falls under the regulation of the Commission, it may initiate a classification hearing under RCW 81.04.510. Under 81.04, the burden of proof in a classification hearing is on the company to prove why it doesn't believe it falls under the regulation of the Commission.

The first step in a classification hearing is to specifically identify that the services provided by the company fall within the definition of a solid waste collection company under 81.XXXX which defines solid waste, and that under RCW 81.XXXXXX the company has:

- 1- provided transportation of waste for collection or disposal
- 2- provided the transportation for compensation

- 3- collected and transported the waste from locations within the state of Washington using public roads
- 4- not obtained a certificate (and the Commission has searched its records and completed the certification statement signed by the Secretary)

To provide evidence that solid waste collection occurred (more than one collection, if possible), staff must obtain from the customer the following:

- Bill of lading, invoice, receipts, or a billing for service provided.
If no documentation is available then a witness statement form must be completed by the consumer. This may include any documents given to the consumer by the company that performed the collection service, e.g. landfill disposal receipt.
- Copy of disposal receipt.
This receipt must be included to document violations when service is provided to a commercial account or with a drop box. The receipt is needed to show the material went for disposal and can't be claimed as a load of recyclables.
- Statement from the customer about the service.
This statement should include all information pertaining to the solid waste service including dates, origin, destination, and receipts, if appropriate.
- Information on how the customer found the company.
If the customer found the company by an advertisement, obtain a copy of the advertisement (as described below) and a statement from the consumer about where the advertisement was found and publication dates.
- Proof that the company received compensation.
Proof of payment may include a copy of both front and back of the canceled check. If paid with a credit card, the credit card receipt, or a statement from the credit card company showing payment. If the consumer paid cash, and no receipt was given, their witness statement must include how much was paid and when. If called as a witness the consumer can also testify to the payment being made in cash.

Other evidence that may be considered:

Identify possible witnesses by documenting names, addresses and phone numbers (work, home, message). When compiling a list include if the witness may be considered hostile (more likely to support the company than the Commission's case).

If possible, identify the location of the carrier's office that is open to the public and list the address. Also, obtain all information possible about who controls the operations of the company.

Other evidence about the company that should be obtained, if possible:

- Department of Licensing - records on licensed vehicles, Business license
- Department of Labor and Industries - employee information
- Department of Revenue - tax information

- Secretary of State - corporate status
- Attorney General - complaints filed
- Better Business Bureau - complaints filed
- Company records, e.g. landfill receipts

From the above information the Assistant Attorney General will write briefs and prepare witnesses and exhibits. A classification hearing will be scheduled before an Administrative Law Judge (ALJ). After the hearing the ALJ will write an initial order in the matter.

If it is determined at the hearing that the company is a solid waste carrier, then the Commission's final order would include the cease and desist order instructing the carrier to stop operations. If the carrier continues to provide solid waste collection services after the cease and desist order, then the OAG staff may go to court and seek an injunction against the company.

Advertising

A company may be taken to a classification hearing on advertising only, but should also have evidence of a least one solid waste collection service performed in addition to advertising, if possible.

Evidence for advertising may be:

- Phone book advertisement - include name and date of phone book
- Vehicles - take a picture and note date, time and location
- Signs - take a picture and note date, time and location. Obtain sign if possible.
- Newspaper advertisement - include name and date of paper

- Flyer - include location of where flyer was obtained and date
- Internet - print copy of the ad showing date. Also try and obtain date of entry or edit for the page or site.

Superior Court Injunction

RCW 34.05.578 authorizes the Office of the Attorney General (OAG) to request permanent injunction against a company in Superior Court.

A court-ordered permanent injunction upholds the Commission-ordered cease and desist, and directs that the company be permanently enjoined from holding themselves out to provide, or providing transportation of solid waste for compensation in motor vehicles over the highways of the State of Washington without first obtaining authority from the Commission.

In order for the OAG to take a case into Superior Court, staff must have all of the information that is included in the evidence required for a classification proceeding. The OAG staff will then write the request for a hearing in the county in which the company violated the cease and desist order.

The OAG will require copies of all evidence. If witnesses will be used then a detailed witness list with the testimony that each witness will give needs to be included. Investigation staff will prepare an affidavit that outlines the case to be presented.

If proof is needed that the company advertised after a cease and desist order was issued, the OAG can issue a subpoena duces tecum (documents or records) for the company who took the advertisement (yellow pages, newspaper, Nickel Ads). The subpoena must include who placed the ad, who paid for the ad and when the ad was requested.

If the Superior Court rules in favor of the Commission and issues an order that permanently enjoins the company from operating, the Commission will continue to monitor the company for compliance.

Contempt of Court

The Commission has the authority through the Office of the Attorney General to take a company to Superior Court for contempt of a court ordered injunction. See example of "Motion to Show Cause Why Defendant Should Not be Held in Contempt of Court" in the addendum portion of this document.

The statutes that authorize these actions are:

Contempt of Court: RCW 7.21.010(b)

Sanctions for Contempt: RCW 7.40.150, RCW 7.21.010(b), and RCW 7.21.030.

If the Commission finds that a company is in violation, by continuing to operate, of a Superior Court injunction, staff will prepare the following documentation for the OAG:

Obtain all the same type of information that is required for a classification proceeding (proof that the company provided transportation of solid waste, for compensation, within the state of Washington). This information is forwarded to the OAG for preparation of a request for contempt of court.

Prepare an affidavit that details all of the findings that would prove the company is in contempt of the original injunction. See example of "Affidavit in Support of Motion to Show Cause Why Defendant Should Not be Held in Contempt of Court" in the addendum portion of this document.

Remedial Sanctions

The Commission may at the same time ask for remedial sanctions against the company for contempt of court.

Remedial sanctions may be asked for from the court to gain compliance with the court order and to, for example, disallow the company to profit from violating the court order. See example of [Proposed] Order Granting Remedial Sanctions for Contempt of Court.