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## Memorandum

**TO:** Cathie Anderson and Interested Parties

**FROM:** Polly L. McNeill

**DATE:** December 19, 2000

**RE:** Comments on Redrafts of WAC 480-70-141 and WAC 480-70-361

Thank you for the chance to comment on the redrafts you sent to me. I continue to appreciate the efforts you are making to give everyone a full and fair chance to provide input, and offer the following observations:

WAC 480-70-141

Kudos to staff for the improvements that have been made to the regulations governing city service. We really appreciate their attention and focus on this important provision. At this point, we have very few comments, and they are for the large part fairly minor.

First, we suggest that the title of the rule be rewritten. Otherwise, because it refers to “city annexation or incorporation,” it might be overlooked in situations where the municipality has long ago incorporated, but now decides to opt out of the commission’s jurisdiction. Perhaps something like, “Certificated authority canceled by city service,” would be a better title.

Second, we still wonder whether situations where cities only partially regulate (i.e., city residential service with WUTC commercial service, or other variations) have been addressed. We suggest that Subsection (1) be revised to say, “To the extent solid waste collection service is provided within the limits of a city, it must be provided by:...” with a similar change made in Subsection (5)(a).

Subsection (2) seems very clear now as to when the commission will act to cancel certificate authority. Subsection (2)(a) unambiguously states the standard expectation that notice will proceed or be contemporaneous with the commencement of service. And (2)(b) reiterates the statutory requirement that notice be the trigger for the commission's actions, not just service alone. We recommend considering a clarification by revising it to say, "If a city or town commences service prior to notifying the commission in writing, the commission will not cancel the affected certificate authority and cease regulation in the affected area ~~on~~ until the date of receipt of the city's or town's written notice.

The last fine-tuning to suggest is that the rights to reinstatement be strengthened by amending Section 5(a) as follows: "Except to the extent set forth in (4) above, the previously canceled certificate authority ~~may~~ shall be reinstated, ...."

WAC 480-70-361

Presumably in response to comments from the haulers that they should only be required to provide information about their own company's programs, this provision has been split into two separate sections, one limited to company-specific program information (Subsection (7)) and a second directed to what is called "general" program information (Subsection (8)). The limitations in the former subsection are welcome; but that is offset by the additional burdens imposed by the latter subsection.

The requirement that the haulers distribute general program information in addition to their company-specific information seems to actually expand the scope of information that haulers must provide from previous drafts. Under Subsection (8), it appears that if the local government provides program information to the haulers, the company must mail it out. This means the haulers may very well be required to advertise for competitors. Certainly, haulers have no problem making information available to customers about public drop box sites, or other waste reduction or recycling programs offered by the government. To require that they advertise for unregulated competitors is unfair.

The burden of undertaking an annual mailing is squarely placed on the haulers, who should more properly defer to the many local governments already performing this function quite well. Subsection (7) allows the company-specific information to be addressed in local government's materials, but in combination with Subsection (8), the onus of mailing the information about government and other private programs is on the haulers. We believe this is the prerogative of local governments. Instead, Subsection (8) clearly invites the local government to rely on the haulers' mailings to distribute their information. It should be noted that in many cases, this won't be as effective. Local governments mail to citizens; on the other hand, a company's billing customers include many multi-use property owners and absentee landlords, rather than the individual generators themselves.

As a final comment, we believe the annual mailing is excessive. New customers should certainly be informed initially. After that, though, we would believe notifying customers that the information is available if they request it is ample incentive for reduction and recycling, and more consistent with those goals. Again, the local governments are usually distributing information regularly and about their new programs, and haulers are a resource to supplement and assist the solid waste coordinators with those activities, but only to the extent requested or necessary. We fear that the primary result of the distribution requirements of this section will be an increase in the amount of materials thrown into the recycling bins right after the mailing.

To address our concerns, we suggest the following revisions:

(7) Company-specific program information.

(a) A company must, at a minimum, ~~provide to each new applicant for service, and at least once a year to its current customers,~~ prepare a list, brochure, newsletter or similar document that describes:

(i) All service options and service levels available through the company to the customer; and

(ii) Methods and programs available to recycle and reduce solid waste.

(iii) This material must include reference to the company's local commercial recycling service options and service levels. The material provided to customers may consist of materials approved or supplied by local government solid waste divisions or solid waste coordinators.

(b) A company must ensure that new applicants for service and all its current customers receive are informed of the availability of the program information described in (a)(i),(ii), and (iii) of this subsection at least once a year. The company will be required to publish its own program information ~~and distribute the materials unless local government solid waste divisions or solid waste coordinators provide~~ distribute the materials information as part of the local government's solid waste and recycling education activities.

(8) General program information distribution. The commission encourages solid waste collection companies to work cooperatively with local government solid waste divisions or recycling coordinators to develop information on methods and programs available to reduce and recycle solid waste, including reference to available local commercial recycling options. ~~When provided by local government solid waste divisions or solid waste coordinators, a company must, in addition to subsection (7) above, distribute to each new applicant for service, and at least once per year to its current customers, any additional waste reduction and recycling materials.~~