

HORENSTEIN & DUGGAN P.S.

ATTORNEYS AT LAW

First Interstate Tower • 900 Washington Street • Suite 900
P.O. Box 694 • Vancouver, Washington 98666-0694
(206) 699-4771 • (503) 289-2643 • FAX (206) 694-6413

LeAnne M. Bremer*
Dennis R. Duggan
Cynthia A. Horenstein*
Scott J. Horenstein
Stephen W. Horenstein
Pat L. Pabst*
Margaret Madison Phelan*
Albert F. Schlotfeldt*
D. Jean Shaw*
Eugene H. "Trey" Tennyson, III

*Also Admitted to Oregon Bar

VIA FACSIMILE AND REGULAR MAIL

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October 21, 1994

STATE OF WASH.
UTIL. & TRANSP
COMMISSION

Mr. Steve McLellan, Secretary
Washington Utilities and
Transportation Commission
1300 Evergreen Park Drive South
P. O. Box 9022
Olympia, WA 98504-9022

Re: The Disposal Group, Inc. v. Waste Management Disposal Services of Oregon
Cause No. TG-941154
Our File No. 144-3 (146)

Dear Mr. McLellan:

Pursuant to my letter dated October 20, 1994 wherein I indicated that the corrected rule interpretation from DEQ would be provided to you upon receipt from DEQ, we have been advised by Patricia Vernon, Solid Waste Policy Manager that the correction to the rule interpretation is being made by DEQ but is not complete. The revised rule interpretation will be in the same format as the attached except the word "not" will be deleted in paragraph B, line 7 (note interlineation made by DEQ on the attached copy). If an affidavit from Ms. Vernon to that effect is not satisfactory, she will be Complainant's sole witness at the October 25, 1994 hearing.

Sincerely,


CYNTHIA A. HORENSTEIN

CAH:lk

Enclosure

cc: Mark Leichner, The Disposal Group

00144003.L52

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding, by facsimile and first class mail, postage prepaid, to:

John Prusia
Administrative Law Judge
Utilities and Transportation
Subdivision of the Office of
Administrative Hearings
2420 Bristol Court S.W.
P.O. Box 42489
Olympia, WA 98504-2489

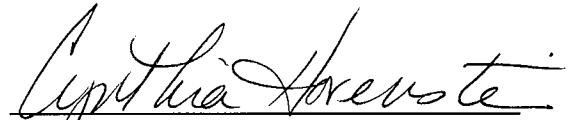
Steven W. Smith
Assistant Attorney General
Heritage Plaza Building
1400 South Evergreen Park Drive S.W.
Olympia, WA 98504-0128

Bill Rasmussen
Davis Wright Tremaine
2600 Century Square
1501 Fourth Avenue
Seattle, WA 98101-1688
Attorney for Waste Management

Jack R. Davis
Allison, Davis & Haffner
1200 Fifth Avenue, Suite 1900
Seattle, WA 98101
Attorney for T&G

Jim Sells
510 Washington Avenue, Suite 300
Bremerton, WA 98337
Attorney for WRRRA/Intervenor

DATED this 21st day of October, 1994.


Cynthia A. Horenstein, WSB #17830
Of attorneys for The Disposal Group,
Inc.

Solid Waste Program
Policy

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SEP 26 1994
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PERMISSION OFFICE

May Wick
Approved

9.22.94
Date Approved

**RULE INTERPRETATION FOR OAR CHAPTER 340 DIVISION 97:
Relating to the Calculation of Disposal Tonnage for Purpose of Fee Payment by Permitted
Municipal and Industrial Solid Waste Landfills.**

A. APPLICABILITY:

1. This interpretation applies to OAR 340-97-110(7) and OAR 340-97-120(3), (4), (5), and (6).
2. The interpretation is applicable to municipal solid waste landfills for payment of permit compliance fee, per-ton solid waste disposal fee, and 1991 Recycling Act permit fee (where appropriate).
3. The interpretation is applicable to non-municipal solid waste landfills for payment of permit compliance fee, and 1991 Recycling Act permit fee (where appropriate).

B. INTERPRETATION:

All materials, both in-state and out-of-state, received by a landfill should be counted in tonnage and fee calculations if that material meets the definition of solid waste and would otherwise be disposed of, regardless of the ultimate use/disposition of the material by the landfill owner/operator.

For the purpose of fee calculation under OAR 340-97-120 (3), (4), (5) and (6), the material received by a landfill should be excluded from the tonnage calculation if it does not meet the definition of solid waste, and is ~~not~~ "clean fill" as defined in OAR 340-93-030 (10).

C. IMPLEMENTATION:

This rule interpretation is effective as of October 1, 1994 and shall be reflected in all tonnage calculations and fee payments due after that date.

DISCLAIMER:

This policy statement is intended solely as guidance and does not constitute rulemaking by the Environmental Quality Commission. It may not be relied upon to create a right or benefit, substantive or procedural, enforceable at law or in equity, by any person. DEQ may take action at variance with this policy statement.