



April 10, 2009

Penny Ingram  
Washington Utilities and Transportation Commission  
1300 S Evergreen Park Drive SW  
PO Box 47250  
Olympia, WA 98504-7250

RE: Solid Waste Definitions Rulemaking, WAC 480-70 - Docket TG-080591

Dear Ms. Ingram:

Thank you for the opportunity to comment on the rulemaking process related to WAC 480-70. The CMRA has been working to represent the interests of construction and demolition recycling across the country for more than 15 years. We are concerned with any changes in transportation rules that would restrict in any fashion the ability of construction and demolition (C&D) materials from being transported by a Department of Ecology registered "Transporter of Recyclable Materials" from job site(s) to a recycling facility for processing, recycling or reuse.

In addition to the topics addressed in the rulemaking, CMRA Northwest has been working with legislators and UTC staff to address other areas of concern related to the transportation of solid waste. We have prepared new information and questions in follow-up to a recent meeting with UTC staff and have requested a follow-up meeting to address these topics and are awaiting response from staff. Many of the issues we have identified have implications toward this rulemaking process, and we believe should be addressed prior to advancing this rulemaking. We have commitment from the House Ecology and Parks Committee Chair and members to continue to explore solid waste issues over the coming interim. Given these circumstances we request that the rulemaking process be held open until these broader issues are addressed.

We have suggested specific language and comments related to each section of the proposed rulemaking on the following pages. Additionally, we have included a section thoroughly addressing the topic of how ADC and IWS are considered in the broader spectrum. We believe there is an important distinction between C&D materials that are simply ground up for use in these applications which we do not feel is recycling, and residual materials that are derived from vigorous sort processes, which are consistent with recycling. Thank you for your consideration of my comments on behalf of our members. For more information about our organization, please refer to [www.greatnwrecyclers.org](http://www.greatnwrecyclers.org).

Best regards,

Preston Horne-Brine  
Executive Director, CMRA Northwest Chapter

The Construction Materials Recycling Association's Northwest Chapter has provided its comments along with actual text suggestions for the rule itself:

**April 10, 2009 –Draft Proposal for Discussion Purposes**

[Strike all of WAC 480-70-016 and insert the following:]

**Determination of authority to transport specific commodities or provide specific services**

**1) Solid waste collection requires certificate**

Any person engaged in the collection and transportation of solid waste must hold a solid waste collection certificate issued by the commission (Chapter 81.77.040 RCW).

- a) Engaged in the collection and transportation of solid waste means:
  - i) Collecting solid waste from residential, commercial, or industrial customers and transporting it, using a motor vehicle, for disposal, over the highways of the state of Washington, for compensation. “Solid waste” for purposes of this rule and in conformance with RCW 81.77.090(9) & RCW 70.95.903 does not include recyclable materials source-separated for recycling or re-use; except as defined below: 1(a)(ii).
  - ii) Collecting source-separated recyclables from residences in scheduled-routed-government-curbside programs and transporting it, using a motor vehicle over the highways of the state of Washington, for compensation (Chapter 81.77.010 RCW).

*Section 1.(a)(ii) should NOT expand the exclusive authority of certificated companies to include collection of all commodities hauled from a residence under all circumstances. It should only provide such authority for regular, scheduled, government authorized curbside collection service.*

**2) Private carriage of solid waste collection or solid waste collection ~~under a local government contract~~ that does not require a solid waste collection certificate.**

The following do not need a solid waste collection certificate:

- a) A business, such as but not limited to: a landscaping, cleanup, site restoration, general contractor or wood chipping business, that, in its own vehicles, transports solid waste as an incidental part of its established business, owned or operated in good faith (RCW 81.77.010 Private Carriers).
- b) A private, individual “person” who generates solid waste at their own house or business and transports it in their own vehicle.
- c) Companies providing solid waste collection services under contract with a city or town (RCW 81.77.020).
- d) Companies collecting source-separated recyclable materials from residences under contract with a county (RCW 36.58.041 (1-2)).
- e) Companies collecting and transporting materials that are source separated for recycling or reuse and that are not-identified in Local Comprehensive Solid Waste Management Plans as materials that are to be collected within scheduled-routed-government curbside programs.
- f) Companies that collect and transport source-separated recyclable materials from commercial generators: businesses, institutions, industries or other commercial entities; in conformance with RCW 70.95.903

*UTC staff's proposed language directs that ALL recyclable materials collection from residences under ALL circumstances must be conducted under a certificate. Apparently, the UTC staff's intent was to be in conformance with RCW 81.77.090 (9).*

*However, the CMRA-NW Chapter believes this goes too far and is inappropriate. It was not the intent of the legislators that passed our recycling statutes. Nor has the Utilities and Transportation Commission appeared to support the notion that only certificated haulers can haul recyclables from residences.*

*Examples of collection services that should NOT be so restricted to only certificated companies are:*

- 1. Recyclable materials transporters placement of a roll-off box at a residence for the collection of recyclable materials generated during a short term construction job conducted by the resident and the hauling of that box by that recycling transporter.*
- 2. Placement of collection drop-boxes by a non-profit or for profit entities for deposit by residents of used or discarded items for reuse purposes (clothes, merchandise, lumber, doors, windows, etc.) and the hauling of those boxes by a recycling transporter.*

*Following the Federal deregulation of the transportation of commodities in 1994, the State of Washington confirmed that solid waste was not a commodity and therefore maintained the certificate of convenience and need program. The State had also narrowly expanded the definition of solid waste hauling to include collection of residential; source separated recyclable materials collected in scheduled-routed-government curbside programs. This was done to preserve and enhance the then-nascent, curbside residential recycling collection government programs that would have been hurt by volume reductions, loss of salvage rights for these programs, and other scavenging problems.*

*However the proposed rulemaking language, here, would inappropriately expand the scope of authority of certificated companies and exclude many recycling companies from collection services that are now deregulated and rightly so. The recycling service of non-scheduled, non-route based, fee-for-service collection of recyclable materials from residential owners by private commercial recyclers was never intended to be circumscribed. It is legally deregulated and must remain so as expressed by this rulemaking language, in its final form.*

RCW 81.77.090(9) "Solid waste" means the same as defined under RCW 70.95.030, except for the purposes of this chapter solid waste does not include recyclable materials except for source separated recyclable materials collected from residences; and

RCW 81.77.010(5) "Private carrier" means a person who, in his or her own vehicle, transports solid waste purely as an incidental adjunct to some other established private business owned or operated by the person in good faith. 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;

### **3) Commercial Recycling Collection requires a motor carrier permit**

Any person engaged in the collection and transportation of commercial or industrial recyclable materials for compensation over the highways of the state of Washington must hold a motor carrier permit issued by the commission pursuant to Chapter 81.80 RCW.

- a) Motor carriers may collect and transport recyclable materials from a drop box, recycling buy-back center, or for commercial or industrial generators.
- ~~b) Motor carriers may not collect and transport recyclable materials that contain solid waste.~~
- b. Motor carriers may not collect and transport solid waste. “Solid waste” for purposes of this rule and in conformance with RCW 81.77.090(9) & RCW 70.95.903 does not include recyclable materials source-separated for recycling or re-use; except as defined above: 1(a)(ii).

***UTC staff’s proposed language for section 3(b) is nonsensical and in contradiction to the following statutory sections.***

RCW 70.95.903 Nothing in this chapter shall prevent a recycling company or nonprofit entity from collecting and transporting recyclable materials from a buy-back center, drop-box, or from a commercial or industrial generator of recyclable materials.....

Nothing in this chapter shall be construed as prohibiting a commercial or industrial generator of commercial recyclable materials from selling, conveying, or arranging for transportation of such material to a recycler for reuse or reclamation.

RCW 70.95.030 (23) "Solid waste" or "wastes" means all putrescible and nonputrescible solid and semisolid wastes including, but not limited to, garbage, rubbish, ashes, industrial wastes, swill, sewage sludge, demolition and construction wastes, abandoned vehicles or parts thereof, and recyclable materials.

***If the intent of section 3(b) is to preclude motor carriers from hauling loads of recyclable materials that contain some non-recyclable components, or loads of recyclable material that contain any non-recyclable materials, then it would be far too restrictive and contrary to the fundamental goals of recycling. All recycling activity necessarily involves a certain small level of residual contamination (as do all raw materials industries). The commission has long held that negligible amounts of non-recyclable materials may be present and/or associated with recyclable materials and hauled by a recycling company without a solid waste certificate. The UTC staff’s proposed language for section 3(b) as stated, would go too far and effectively prohibit hauling of recyclable materials by all carriers except for solid waste companies that hold a certificate. This restriction would essentially undermine the competitive commercial recycling industry in Washington state and violate the federal requirement that deregulates commercial recycling (transportation of commodities).***

- c) Transportation of recyclable materials must be for recycling, reprocessing, reclamation or for a process that extracts or modifies the commodity for reuse.
- d) Transportation of recyclable materials by common carriers and certificated haulers operating under non-tariff rates must not be to a transfer station, landfill, or other disposal facility for disposal.
- e) Transporters of commercial and industrial recyclable materials not transported under tariff rates must also register with the Department of Ecology as a “transporter.”

#### Section 4)

***The CMRA-NW Chapter recommends deleting the entire section 4. The UTC is not charged with determining “beneficial uses” nor are they qualified to do so.***

*We have provided below, examples that reflect the UTC lack of understanding or capability to make such determinations.*

4) **Uses that are not “for disposal.”** (The following uses of commercial or industrial byproducts are not “for disposal” within the meaning of subsection 3(d) and do not require a solid waste collection certificate of convenience and necessity from the commission:

a) Any use that is identified for a recyclable material listed in a county’s local comprehensive solid waste plan and related implementation ordinances (Chapter 81.77.030 RCW).

*Local comprehensive solid waste plans generally only identify recyclable material or types of recyclable material and generally do not specify how or where they are to be handled or used. They do not reflect disposition options for recycled material that is too severely contaminated to be marketed or is a residual contaminate material from a MRF or processing operation for recyclable materials.*

b) Animal feed or animal feed additives.

*What about animal bedding or for constructing animal lodging?*

c) Producing energy from wood-derived boiler fuel (hog fuel) or burning source-separated wood.

d) Producing combustible gas for energy using a biodigester.

e) Land application to enrich soil, or for composting to allow organic materials to decay to amend soil that is beneficial to plants.

*What about use as a mulch or for erosion control? Or for use as a bio-filter medium?, or for use as a temporary stabilization media (on a temporary road in an trench/tunnel being excavated?)*

f) Use for daily landfill cover or alternative daily cover.

NOTE: The commission seeks comment on whether use of waste material as alternative daily cover (ADC) or landfill daily cover should be classified as “recycling/reuse.” Please provide your reasoning.

*See the attached discussion paper which supports the contention that properly generated ADC is a benefit to both the landfill and the environment alike and is not a “disposal” practice or option.*

If you assert that ADC should be classified as “recycling/reuse” please answer the following:

Given that both solid waste and ADC materials are transported to landfills, how could commission inspectors determine whether shipments will be used as ADC or for disposal?

*As described in the attached document, properly prepared ADC does not resemble typical solid waste, is much more consistent than mixed solid waste, and its strategic placement*

*within a fill according to specification (layers of a certain thickness of ADC covering putrescible waste layers with their thickness requirements). The commission inspector's assessment would be determined by an understanding of the particular ADC material, the placement specifications, and then a visual inspection.*

*This section fails to identify the hundreds of potential uses for the many types of recyclable materials that are currently considered beneficial to the environment in their reuse. This includes but is not limited to, commercially generated varieties of lumber, glass, plastics, metals, organics, liquids, asphalt materials etc. that are used by many manufactures in a wide variety of ways.*

**5) Uses that are “for disposal.”**

The following uses of commercial and industrial byproducts are “for disposal” and therefore the transportation of materials for these purposes requires a solid waste collection certificate from the commission:

- a) Placement in a landfill, even if the landfill operator captures methane gas from the landfill for energy ~~or uses the solid waste to meet structural or drainage requirements.~~

*UTC staff proposes that use of materials as an “industrial waste stabilizer” to meet structural or drainage requirement of a special waste landfill be classified as a disposal activity however the Commission itself has yet to make this determination. The CMRA feels the subject should be given the same level of consideration as ADC since it similarly provides benefit to the special waste landfill operator and to the environment IF the industrial waste stabilizer is derived from the waste stream as described in the attached discussion paper and utilized as required by good engineering practices and confirmed as such by a professional engineer.*

- b) Incineration at a disposal facility that does not produce energy.

- c) Use for daily landfill cover or alternative daily cover.

NOTE: As indicated above, the commission seeks comment on whether ADC should be listed here as a type of “disposal,” or above as “recycling/reuse.” Please provide your reasoning.

*See the above response that supports ADC as recycling/reuse*

**6) Transporting recyclable materials to a sorting facility**

Unless the following conditions are met, a motor carrier transporting mixed recyclable materials to a sorting facility must have a solid waste certificate issued by the commission:

- a) ~~Any residual left over after sorting out material for non-disposal purposes must be transported from the sorting facility to a disposal site by a certificated solid waste collection company or by a municipality that provides solid waste collection service itself or by contract.~~

*This language would revoke the statutory authority for a recycling facility to haul waste generated by their own recycling/sorting activity as provided in RCW 81.77.010(5).*

81.77.010(5) "Private carrier" means a person who, in his or her own vehicle, transports solid waste purely as an incidental adjunct to some other established private business owned or operated by the person in good faith. 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;

*Recycling facilities receive "self-haul" recyclable materials (by the generator) that may contain incidental non-recyclable or contaminate material that will require disposal. They may also receive (intentionally or inadvertently) some very low value recyclable materials that can only be used (following processing as suggested) as ADC or IWS*

*Owners or operators of recycling facilities may generate non-recyclable and recyclable materials during the course of other activities they are involved with (such as job site cleanups and demolition projects). They may process this material at their recovery facilities and separate out residual material which they are authorized, by statute, to haul themselves as a private carrier.*

*Transporters of recyclable materials often transport to, approved recycling/sorting facilities with whom they have no affiliated interest or no subsidiary interest. In this case, the transporter would have no control, or even knowledge of who would transport the residuals from that recycling facility. Often such knowledge would be considered proprietary.*

- b) The motor carrier holds itself out as a transporter of recyclable or reusable materials and not as a solid waste collection service.
- c) The motor carrier requires its customer (shipper) to keep the recyclable or reusable materials separate from commercial or industrial byproducts that are to be disposed. ~~Additionally, if the shipper does not use a certificated solid waste company or a municipality, the motor carrier must demonstrate to the commission that the shipper transports its own solid waste for disposal.~~

*The transporter has absolutely no ability or authority to require documentation from the shipper and in all likelihood will not be on the job site when transportation of solid waste is performed. This UTC staff proposed requirement will be obstructionary in nature and practice, meant only to complicate the relationship between transporter and shipper. The transporter does not direct the shipper; nor is he an enforcement entity in either function or authority. Rather, that is a role of a government entity like the Utilities and Transportation Commission.*

## **Role of residual materials used for Alternative Daily Cover (ADC) and Industrial Waste Stabilizer (IWS)**

The CMRA-NW provides the following additional comment for your consideration while deliberating the subject of the use of Alternate Daily Cover (ADC) and/or Industrial Waste Stabilizer (IWS) and the hauling of such material under the guidance of 81.80 Motor Freight Carriers.

It is important to understand CMRA-NW chapter members and the recycling industry as a whole do not support utilizing higher value recoverable commodities for the preparation of, or use as, alternative daily cover or industrial waste stabilizer. Our members have made significant investment in developing programs, markets and infrastructure needed to improve the recovery capabilities for recyclable construction and demolition materials (C&D). Additionally, it is in the best financial interest of our members to achieve the highest recovery rates possible in order to maintain positive cash balance for their facilities. This is because the economic viability of a material recovery facility is based upon diverting as much material away from an end user that charges for the acceptance of the recovered materials and send it to those that pay for the materials.

It must be stated and noted that the CMRA-NW supports and maintains (as had the commission staff previously) that the term “use” within the definition of solid waste under RCW 81.77 is the only specific relevant criteria (as determined by “higher use” analysis) to determine if a material needs to be transported under 81.77 as a solid waste courier or 81.80 as a common carrier. The CMRA-NW further believes properly prepared and utilized ADC and/or IWS meets the defining “use” criteria and whereby the landfill operator would be considered the “recycler” in this case.

RCW 81.77 adopts the following definitions for the purpose of defining the type of “solid waste” collection that requires a certificate under that chapter: (This language taken from Ms. Washburn letter of September 7, 2007 to T&T Recovery Inc.)

(8) "Solid waste collection" does not include 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. Transportation of these materials is regulated under chapter [81.80](#) RCW;

(9) "Solid waste" means the same as defined under RCW [70.95.030](#), except for the purposes of this chapter solid waste does not include recyclable materials except for source separated recyclable materials collected from residences; and

That being said, the CMRA-NW recognizes the commission staff has presented a differing opinion and therefore, provides the following analysis that likewise supports the position that the transportation of properly prepared and properly utilized ADC and/or IWS is regulated by RCW 81.80 rather than 81.77.

For the purpose of this discussion, ADC is a mixture of non-putrescible fine materials of sufficient weight and density that resist being wind blown and is capable of forming an effective cover over landfilled garbage for the specific purpose to prevent the spread of disease by vectors. Daily cover accomplishes this by reducing vector attraction and limiting insect accessibility to



landfilled waste. Generally, ADC can be soils with modest concentration of hydrocarbon contamination and/or, residual small particulate and/or, non-recyclable residuals from material recovery facilities that have been processed to meet the specifications of daily cover for the landfill for which the material will be used.

Likewise, waste derived Industrial Waste Stabilizer (IWS) must be non-putrescible and meet the engineering specifications for its specific use and be have resulted as residuals from an aggressive material recovery activity.

Non-soil type waste materials that are processed to meet the specifications of ADC and/or IWS (by grinding for example) but have not undergone a rigorous material recovery process for the purpose of material recovery for higher or better use would not be considered recycling in this context. Although this waste material (whether processed by grinding or not) may be considered to be used in a beneficial fashion, the failure to strive for higher and better use of components within the waste material results in a lack of resource sustainability and is contrary to stated RCW 70.95 hierarchy of waste management.

An additional purpose for the aforementioned limitation on what type of material would constitute appropriate material(s) used for ADC and/or IWS is also needed to encourage and to protect the investment that have been made (or will be made) by material recovery facilities attempting to achieve resource sustainability - the goal of Washington States recycling and beneficial re-use legislation.

As previously stated, the CMRA-NW does not believe a waste material must meet all the criteria stated in the definition of “recycling” or “recyclable materials” in order to be transported under RCW 81.80. However, we provide the following discussion to show inconsistencies and contradictions with taking the position that RCW 81.77 rules apply unless all conditions of the following terms are met.

Stated criteria and issues that have been presented by various agencies to determine if a material is considered to have been recycled have included:

1. The material must have undergone a transformation.
2. The material must be used in a beneficial way.
3. Use must not present an environmental or public health threat.
4. Beneficial use or re-use of a waste is not recycling.
5. The material must be identified as a recyclable material within the Comprehensive Solid Waste Management Plan.
6. The shipper must gain positive value (receive money rather than pay) from the material.
7. There must be a diversion from the waste stream.

Definitions of interest;

WAC 173-350-100

“Recycling” means transforming or remanufacturing waste materials into usable or marketable materials for use other than landfill disposal or incineration. Recycling does not include collection, compaction, repackaging, and sorting for the purpose of transport. (Emphasis added)

“Beneficial Use” means the use of solid waste as an ingredient in a manufacturing process, or as an effective *substitute for natural* or commercial *products*, in a manner that *does not pose a threat* to human health or the environment. Avoidance of processing or disposal cost alone does not constitute beneficial use. (Emphasis added)

RCW 70.90.030

(18) "Recyclable materials" means 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. Prior to the adoption of the local comprehensive solid waste plan, adopted pursuant to RCW [70.95.110\(2\)](#), local governments may identify recyclable materials by ordinance from July 23, 1989. □

#### Definition Discussion:

##### “Recycling”

It is important to note that although the material we define as meeting ADC or IWS is used within a landfill it is technically not “disposed of” within the fill as specified within the definition of recycling. Rather, it is placed in such a manner to perform a specific task or function, in the case of ADC, to reduce vector attraction and subsequent pathogen migration. In the case of IWS, to provide needed structure and drainage in a special waste landfill. (*Special waste landfill is a “limited purpose landfill” where the industrial waste being disposed of is of such structure and/or consistency that additional structural materials are required for the landfill to function properly*).

##### “Beneficial Use”

As Alternate Daily Cover, this material is used as a substitute for native soil. Native soil has been the industry standard for daily cover for many years. ADC is an attractive substitute for soil to the landfill operator and also for ecological reasons. The most obvious benefit is that generators of ADC are willing to pay a fee for the acceptance of the material at the landfill, (although generally at a reduced tip fee from standard tip rates). Another benefit to the landfill operator is that the provider delivers the material to the point of use within the landfill area. Equally important, but less obvious, is the fact that this material can generally be worked (laid and spread) in wet or dry conditions unlike some soils in wet condition.

The ecological benefits of ADC are threefold,

- 1). Rather than just taking up space within the landfill it is providing a function as a daily cover.
- 2). This material is now displacing the consumption of valuable landfill space that would have been consumed by native soil.
- 3). This material avoids the need to load and transport soils to the site of utilization upon the landfill thus reducing fuel consumption and greenhouse gas emissions.

The ecological benefits of IWS are threefold as well. (These benefits are directed toward use within Weyerhaeuser’s limited purpose landfill however some waste materials are used to stabilize soils in other settings).

- 1). Rather than just taking up space within a MSW landfill the material is providing a function as an industrial waste stabilizer. In the case of Weyerhaeuser, it keeps the industrial waste mass from moving.
- 2). This material improves drainage within the fill.

3). Displaces the use of other more readily recyclable materials or virgin materials that would be used to accomplish the structural support or drainage needs of the landfill. These may include landclearing debris, logs or sheered tires.

Using a waste material that has been processed to meet the stated requirements of ADC and/or IWS would be analogous to using crushed glass for a drainage layer below the landfill or within drainage trenches instead of using drain rock. Another example would be the use of chipped tires as a base to protect the landfill liner and provide drainage. Asphalt and concrete rubble are routinely used for road base within the landfill in place of pit-run. Other examples include waste materials as a component of spray-on ADC and waste materials being used as a component of synthetic liners and drainage mats (plastics) that are used within the landfill.

#### “Recycled Materials”

The portion of the definition of “recycled materials” that has been involved with the establishment of criteria has been that the material must be identified within the local solid waste management plan (comp plan). A significant problem with this language comes to light when determining if it is meant to cover the generators comp plan or end user’s comp plan for compliance conditions. Additionally, many comprehensive plans may not be current (updated as required) and/or recycling technologies out paced updates. Many currently revised plans group like recyclable (example, Whatcom County identifies recyclable materials generically like; construction and demolition materials). To our collective knowledge, no comprehensive solid waste management plan specifies how or where recyclable materials are to be used (however, Cowlitz County Comp Plan does reference the use of industrial waste stabilizer in the case of Weyerhaeuser).

#### Bulleted Issues:

#1). The CMRA believes if construction and/or demolition waste material undergo an aggressive recovery process to recover all practical material capable of being used for a higher use and this process results in a material suitable for use as ADC and/or IWS it has undergone a transformation. One only needs to visually see the material entering a properly run MRF and compare that material to the residual material used for these purposes to recognize a transformation has occurred.

#2). The supporting beneficial use argument is presented within the discussion of beneficial use above.

#3). Another important (and required) condition of “beneficial use” is that the use does not present a potential for human and/or environmental harm as per the definition. Clearly, this material placed within the controlled environment of a fully engineered and permitted landfill will not pose a threat to human health or the environment. Therefore, this is not an issue with ADC and/or IWS.

#4). Some have expressed the notion that beneficial use (or re-use) is not “recycling” as such, but concede that it is a “use”. We can only surmise this statement is based upon the idea that the use will not lend itself to being re-recycled. The examples listed while discussing the definition of beneficial use herein, the liner material, chipped tires, glass. (all collected as recyclables), for

all practical purposes will never be available for being recycled again but nevertheless served a purpose in lieu of using virgin drainage material such as gravel or synthetic materials.

To our knowledge there is no specific regulatory requirement that would require a recyclable material to be capable of being re-recycled again. Waste derived fuel, wood derived fuel and captured waste derived fuel from anaerobic decomposition are some examples of single use recycling efforts (although some may argue they are beneficial use activities, not recycling). However, an example(s) of a universally accepted recycling practices would be the production of toilet and tissue paper from mixed waste paper. Tissue paper is not capable of being re-recycled and is discarded after use. Another example is the production of composite plastics from virgin plastics where the product is the end of the life cycle for the plastic components.

#5). We believe the response and discussion presented under the definition of recyclable materials responds to the issue adequately.

#6). In a couple instances, agencies (or personnel within) have placed significant weight on the idea that in order to be considered “recycled” the commodity must have positive value to the shipper (generator). The CMRA-NW does not believe this is a valid argument and seems to be an argument of convenience.

With respect to recycling, a fee paid to the shipper for a material or a fee paid by the shipper for someone to accept a material is a economic function of supply-and-demand not whether the material has “use” value from an ecological perspective (for which solid waste rules are written). In several outright accepted recycling practices fees are paid by the shipper to have a recycler accept a waste material for recycling or reuse purposes and frequently these conditions change based upon supply and demand.

Examples of a shipper paying (negative market) for recycling are:

- Acceptance of sheetrock for reuse in making sheetrock or animal bedding.
- Recently, metal receipt at recycle yards required a tip fee.
- Mixed waste paper has experienced negative markets for the shipper over the years.
- Glass is consistently recycled in a negative shippers market.
- Scrap tin (appliances) often has no or negative market value to the shipper.
- Tire recycling operates in a negative market for the shipper (tire disposal fee subsidized recycling program).
- Co-mingled curbside programs all pay a tip fee for acceptance of their material.
- Source separated organic materials are in negative markets for composting and/or anaerobic digesting.
- Concrete and asphalt recycling consistently operates in a negative market.
- Most plastics operate in a negative market for the shipper.
- Electronics recycling operate in a negative market for the shipper.

Interestingly, agencies stating a positive financial market as criteria for recycling often include many, if not all, of the above within documented recycling rates for their perspective county or the State. CMRA-NW discounts this criterion.

#7). Some have stated that ADC and/or IWS do not result in a diversion from the waste stream. CMRA-NW is unclear if there is a statutory requirement for this condition. In any case, it is a fact that the material used as we prescribe for ADC and/or IWS is not diverted from a landfill however, virgin soils in the case of ADC and other materials in the case of IWS are diverted from being used, thus resulting in an increase capacity within the fill, ultimately prolonging the landfill resource which amounts to the equivalent of diversion. Use of this material in this manner, as previously stated, also provides the benefit of reduced greenhouse gas production.

The fact that Material Recovery Facilities continue to have to pay the landfill to receive the ADC and/or IWS is sufficient incentive to continue to strive to find new markets for components within the ADC and continue to make large financial investments in material separation and handling/processing equipment. The investments are needed and encouraged by the State's recycling goals and legislation.

Webster generally defines a "commodity" as an article of commerce esp. when delivered for shipment and something useful or valued. Webster defines "recycle" to pass again through a series of changes or treatments...in order to regain material for human use, recover, to adapt to a new use, reuse... "Beneficial" is defined as, receiving or entitling one to receive advantage, use or benefit. "Use" is defined by, the fact or state of being used... "Waste" is described as, discarded as worthless, defective, or of no use...

The CMRA-NW believes the use of low value C&D debris generated as described herein would conform to Webster's definitions and clearly benefit the landfill operator in today's market both financially and beneficially. Furthermore, barring expressed specific language from the legislature (such as the legislature stating beneficial use does not, or may not, constitute recycling), these commonly accepted definitions should be used to determine regulatory compliance and interpretation particularly with transportation regulation.

The CMRA-NW believes it is important that transportation rules conform to the state legislators goal to protect the certificated garbage collection program but the rules must also maintain compliance with mandated federal de-regulation stipulations and the legislators clearly stated intent to allow for a competitive commercial recycling program to flourish within the state. It is our belief that our suggestions conform with common sense, federal law and to the legislative goals and objectives and trust the commission will as well.

Thank you for your consideration