



Kitsap County Department of Public Works

614 Division Street (MS-27), Port Orchard, WA 98366-4699

R.W. Casteel, P.E., Director

January 7, 2010

David W. Danner
Executive Director and Secretary
Washington Utilities and Transportation Commission
1300 S Evergreen Park Drive SW
PO Box 47250
Olympia, WA 98504

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

Dear Mr. Danner:

Thank you for the opportunity for the Kitsap County Solid Waste Division to respond to the Washington Utilities and Transportation Commission's Rulemaking to consider revisions to WAC 480-70, governing solid waste collection companies.

Comments on Proposed New Section (WAC 480-70-xxx)

General Comments

The Kitsap County Solid Waste Division agrees that narrowing of the proposed rule to "the question of when a company engaging in for-hire transportation of construction and demolition (C&D) waste for recycling is exempt from regulation as a solid waste collection company" is appropriate.

It is important that this rule be carefully crafted so as not to have an unintended consequence of causing legitimate C&D recycling carriers to go out of business by placing requirements on them that they are unable to achieve.

Two separate issues are being addressed in the proposed rule, transportation and waste processing by a material recovery facility. We recommend that any rules that regulate waste processing by a material recovery facility (MRF) be promulgated by the Department of Ecology. The Washington Utilities and Transportation Commission's rule making should focus solely on transportation of C&D wastes.

We agree that a carrier hauling C&D commodities that have been separated on site and carried to a recycler of the commodity qualifies for the commercial recycling exemption under RCW 81.77.010(8).

We agree that carrier hauling C&D waste from a construction or demolition site to a landfill, transfer station or incinerator should not be exempt under RCW 81.77.010(8) and have a certificate of public convenience and necessity if the material is handled as garbage for disposal. If the landfill or transfer station further processes the C&D wastes and recycles it, the commercial recycling exemption for the carrier would be appropriate.

We recommend that a carrier hauling mixed C&D wastes to a C&D material recovery facility be considered exempt from RCW 81.77. The carrier of the mixed C&D waste is involved only in the transportation of the commodity, not the processing of the waste after it reaches the MRF. The Utilities and Transportation Commission is responsible for regulating only the transportation of the materials; the Department of Ecology should be the agency responsible

for regulating the activities of the C&D material recovery facility to assure that it meets certain performance standards.

Specific Comments

Section 3 (b): This clause appears to require the carrier of mixed C&D waste to assure that the generator has provided "a container of appropriate size for non-recyclable waste generated on the site". Is it intended to be the C&D carrier's responsibility to determine if the generator has provided an "appropriate size" container? It is unclear how this would actually be enforced and by whom in the field.

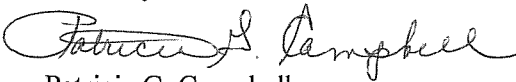
Section 3 (d) (ii): This clause requires a C&D MRF to achieve 75% recovery rate if it is to be used by exempt C&D carriers. It also seems to require the WUTC to monitor the activities of the C&D MRF. The activities and standards for a MRF should be set and regulated by the Department of Ecology, not the WUTC. This clause is clearly related to solid waste facility management and not transportation.

This section also leaves open the question of how a carrier would know if the MRF meets the 75% standard. Is it the carrier's responsibility to review the MRF's records? It would seem more appropriate for the Department of Ecology to annually publish a list of acceptable C&D MRFs; carriers transporting materials to those sites would then be exempt from regulation under RCW 81.77.

Section 3 (D)(ii) provides clarification concerning wastes to be used as industrial boiler fuel or alternative daily cover, but is silent on disposal in landfills and incinerators who generate energy through their operations. It should be clear that disposal in landfills or incinerators, even if energy is produced as a by-product of their operations, is not considered recycling.

Thank you again for this opportunity to provide comments and to participate in this rulemaking process. If you have any questions, please contact Dave Peters, Recycling Coordinator, at 360-337-4898, or via e-mail at dpeters@co.kitsap.wa.us, or me, at 360-337-4626, or via e-mail at pcampbell@co.kitsap.wa.us.

Sincerely,



Patricia G. Campbell
Senior Program Manager
Solid Waste Division