

# Waste Connections

Dear Kyle

Waste Connections Inc (WCI) appreciates the opportunity to submit comments on WAC 173-350 Rule update. WCI has taken an active role in the process and has participated on several workgroups since the beginning of the Rule update process. This Rule update is important to us personally and professionally as we continue to make constant and never ending improvement on an already excellent solid waste handling system. With this in mind, we offer a few comments we hope you will take into consideration prior to making the Rule final.

## I. WAC 173-350-021 Determination of Solid Waste.

a. WCI supports the clarification for determination of solid waste, this section should provide clarity for both industry and regulators. In particular the factors that deal with "positive market value" are particularly important in light of the current situation.

b. In this latest draft of the determination, a test has been eliminated which stated that a material must be "separated from solid wastes" to no longer be a solid waste. Source separation of recyclables is a key component of Washington law in RCW 81.77 and 70.95, and the concept of recycling itself. The final rule should contain a factor requiring materials to be separated from other wastes to not be considered a solid waste.

c. Separation should also be defined in 173-350 to clarify the degree to which a material needs to be separated from other solid wastes to no longer be considered a waste. "Separation" or "separated" means source-separation into individual material streams to remove or separate recyclable materials from other non-recyclable solid waste, resulting in less than 5% by weight non-recyclable materials, for the purpose of reuse or recycling. This definition was discussed at length in the workgroup.

## II. Definitions and Applicability.

a. Applicability This section should clarify that all materials could become a solid waste and be subject to the determination of waste test in WAC 173-350-021, consistent with how they are managed.

b. Definition of Recycling: Many discussions and reiterations surround the definition of Recycling, we believe the current definition eliminates an important part of the process, "Recycling does not include collection, compacting, repackaging, and sorting for the purpose of transport.". WCI would offer the following definition for clarification:

"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, compacting, repackaging, and sorting for the purpose of transport. Recycling includes processing waste materials to produce tangible commodities.

Maintaining the distinction between preparation and true transformation into something of value is crucial for the new "commodity" definition to have any real meaning.

Enforcement: Successful regulation for any waste requires effective enforcement.

### III. WAC 173-350-210 Recycling and Material Recovery Facilities.

a. The draft Rule addresses some longstanding issues caused by a lack of enforcement and oversight of recycling facilities. The change to require permits for any facility accepting commingled recyclable materials is a positive change in limiting the scope of this problematic exemption. WCI supports this change and views it as a key component of this rule proposal. WCI also supports the change from the old "5%/10%" limit for recycling residuals to a clear and consistent 5%.

b. WAC 173-350-210(2) states that an exempt facility may be subject to permitting requirements if it violates the terms of its exemption. The "may" must be changed to "shall" or "will" to both comply with statutory authority in RCW 70.95.305 and to provide the regulation with any real chance of effective enforcement. Violators should be subject to penalty, with a 30 day window to bring violations into compliance:

If a facility does not operate in compliance with the terms and conditions established for an exemption under this subsection, the facility may shall be subject to the permitting requirements for solid waste handling under this chapter after 30 days.

### IV. WAC 173-350-320 Piles used for Storage or Treatment.

a. The current draft rule maintains the higher threshold for exemption at 2,000 cubic yards for several materials, up from 250 in the current rule. WCI and WRAA opposes this increase in pile size. In reality, 2,000 cubic yards is a large amount of material. Considering an average dump-truck somewhere in the range of 10-14 cubic yard capacity, the new rule anticipates up to 200 truckloads of material before a permit is required. This expansion is ill advised given Washington's history with exempt facilities and clean-up sites

### V. WAC 173-350-400-410 Limited Purpose and Inert Waste Landfills.

a. WCI opposes expanding exemptions for these facilities

b. WCI opposes adding contaminated soils and dredged materials to the list of acceptable items at a limited purpose landfill. Inert waste and limited purpose landfills should be required to have a scale to meet design requirements. The new draft requires "a description of how operators will maintain operating records" on the amount of waste received in WAC 173-350-400(4)(ix). This section should be reworded to specify that accurate and truthful record keeping is a permitting requirement and provide for enforcement, reporting, and auditing of these numbers to address consistent problems with this class of facilities.

WCI appreciates DOE's willingness to consider our comments. We have enjoyed years of a successful public/private relationship and look forward to many more. If you should have questions regarding any of our comments please contact Jody Snyder Jodys@wcnx.org at (253) 377-0362. We look forward to the completion of this Rule in the near future.

