

# 173-350 Solid Waste Definitions Update Work Group

October 7, 2014 1:00-2:30

(360) 407-3780 PIN Code: 183610 #

## Agenda

### Attendees:

X	Andrew Kenefick	Waste Management
X	Ann Rendahl	Washington Utilities and Transportation Commission
X	Art Starry	Jurisdictional Health Authorities
X	Brad Lovaas	Washington Refuse and Recycling Association
X	Bruce Chattin	Washington Aggregates & Concrete Association
X	Carolyn Logue	Government Relations Consultant
X	Ken Stone	Washington State Department of Transportation
	Scott Windsor	Local Government - City of Spokane
	Sego Jackson	Local Government - Snohomish County
X	Suellen Mele	Zero Waste Washington
X	Ted Silvestri	Jurisdictional Health Authorities
X	Troy Lautenbach	Washington State Recycling Association
Guests:		
X	Pam Smith	Washington Utilities and Transportation Commission
X	Penny Ingram	Washington Utilities and Transportation Commission
Ecology:		
	Gary Bleeker	Washington Department of Ecology
X	Wayne Krafft	Washington Department of Ecology; Proxy for Gary Bleeker
X	Alli Kingfisher	Washington Department of Ecology

**Project Objective:** The definitions of Solid Waste, Recyclable Materials, and Recycling are the basis for all solid waste handling activities. These terms are defined in statute, but subject to some interpretation. The work group will focus on these terms and determine if they can be clarified or improved within the limits of existing statutes.

### Meeting Objectives:

- Review meeting schedule
- Review group process to date
- Discussion on other definitions

Time	Topic	Additional Details
10 min	Welcome, Check in, Roll call	<ul style="list-style-type: none"> <li>• Jody Snyder and Kip Eagles have stepped off</li> </ul>

		<ul style="list-style-type: none"> <li>Name, Organization, One thing you are carrying forward from the last meeting</li> <li>Review Schedule</li> </ul> <p><i>Ken:</i> Q: Earthen materials work group is also working on definitions. How is Ecology staff coordinating between work groups?  <i>Wayne:</i> groups working independently – but conflicts will be worked out.</p>
<b>5 min</b>	Review Ground Rules	<ul style="list-style-type: none"> <li>Turn off distractions (phone, email etc)</li> <li>Success depends on participation</li> <li>Avoid acronyms</li> <li>Share air time</li> <li>Share the why as well as the what</li> <li>These are preliminary thoughts</li> <li>Feedback loops with constituent groups/gatekeepers</li> <li>Regular attendance – if you can't attend designate a proxy</li> <li>State your name before you speak</li> </ul>
<b>5 min</b>	Review group process to date	
<b>60 min</b>	Review and discuss other definitions of solid waste/recyclables/recyclable materials. Evaluate pros/cons of different language and models.	<p><b>WAC 480-70-016(4)</b> <i>Note: Consider for model language of "will consider factors including, but not limited to:"</i></p> <p><b>WAC 173-303-016</b> Identifying Solid Waste  <i>Note: definition of 'accumulated speculatively'</i></p> <p><b>173-303-017 Recycling processes involving solid waste</b>  <b>EPA's definition of solid waste under RCRA or Clean Air Act</b> <i>Note: see attached document</i></p>
	Discuss as time permits	Continue discussion from previous meetings of the definition of "Solid Waste" or "wastes"
<b>5 min</b>	Wrap-up & Check-out	

	<i>Comments:</i>
<p><b>WAC 480-70-016(4)</b> <i>Note: Consider for model structure of "will consider factors including, but not limited to:"</i></p>	<ul style="list-style-type: none"> <li>Instead of setting strict criteria this is a way to provide a framework for decision making we should look at the approach but not these exact words.</li> <li>These factors are used by the UTC but they are not perfect. They are not appropriate for use in the definition but rather in the rule for how to make a decision. Ann said she will get more information on how the structure has worked well and what the challenges have been.</li> <li>Don't tinker with definition but use this structure to establish a test to determine what is disposal activity and what is recycling activity. Examine keeping the definitions the same but add a section to the rule.</li> </ul>

	<ul style="list-style-type: none"> <li>• There have been conflicts by recyclers where the burden of proving an activity is on them to define what is recycling and what is not. The case referenced was the use of soils and materials as landfill cover.</li> <li>• Part of the problem is the lack of enforcement boots on the ground. This is a paper trail and agencies don't have enough enforcement. But staff call around and determine based on factors from paper review and interviews.</li> <li>• The UTC and Ecology have different rules but perhaps we can help bridge the differences with a structure like this. Something similar to how 480 was to meld the differences between RCW <a href="#">81-77</a> and RCW <a href="#">81-80</a>.</li> <li>• When considering what is recycling and what is not, we also need to consider that some legitimate activities can still cause problems and be done poorly.</li> <li>• Facilities are a part of this problem</li> <li>• Whether something is a solid waste or not a solid waste does not mean that one is regulated or not. There can still be other regulations – stormwater, air etc – that can regulate it.</li> <li>• This will be a real challenge to revise this regulation that everyone will agree on and will not divert too far from statute.</li> <li>• If we don't touch definitions of solid waste in the WAC and then work with ECY on the development of a guidance document to guide Ecology's determinations to lie forward a path. But guidance can be difficult because rules are specific. There is a need for managing SW in rules and not in guidance to provide clarity and consistency across the state.</li> <li>• Can we make a note/recommendation with that caveat that we are limited by the constraints of keeping the RCW intact?</li> </ul>
<p><b>RCRA Section 1004(27)</b> The term "solid waste" means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, EPA's definition of solid waste under RCRA or Clean Air Act</p> <p>The definition of legitimate recycling consists of four</p>	<ul style="list-style-type: none"> <li>• EPA's 4 legitimacy factors are similar</li> <li>• You can put guidelines in a rule – but it doesn't have to be just a policy statement or a guidance doc. It can fall in a rule – outside of definitions section.</li> <li>• We can establish test criteria/examples such as: <ul style="list-style-type: none"> <li>○ Registration as a common carrier</li> <li>○ Do they submit a recycling report to the Department of Ecology. (And have the reports audited)</li> </ul> </li> <li>• Do we need to define commodity? For example scrap metals are listed in Solid waste plans but is it not a solid waste since they are not a waste but has a value.</li> <li>• Some things that are commodities still need regulations</li> <li>• 81-80 references transporting <i>property</i> vs a <i>commodity</i>. The word <i>property</i> is huge. They will have documentation for it such as a bill of lading.</li> <li>• One thing we run into – materials if looked at one way it could be considered recycling. Tire piles are one example. Key is to provide criteria so a JHD or ECY – collect tip fee, etc puts it into waste category and not commodity</li> </ul>

<p>legitimacy factors:</p> <ol style="list-style-type: none"> <li>1. Materials must provide a useful contribution to the recycling process or to a product or intermediate.</li> <li>2. Recycling must produce a valuable product or intermediate.</li> <li>3. Materials must be managed as valuable commodities.</li> <li>4. Products of recycling must contain levels of hazardous constituents comparable to those in analogous products.</li> </ol>	<ul style="list-style-type: none"> <li>• Regarding adding the word ‘discarded’ if the only change is to add ‘discarded’ then that gloss has been considered by courts, ECY, PCHB and common law. It has less significance in Washington than elsewhere. We need to incorporate this into a larger guidance doc and not change</li> <li>• 173-303-016 Definitions of solid waste is detailed and complex and reflects RCRA. If we add in discard does it require this level of definition? And will this get us where we want to go? If you don’t change the definition but you add a rule 303-016 to provide a clarification – it doesn’t need to be as complicated but this is the type of rule needed and not put it into definition.</li> <li>• The words <i>speculative accumulation</i> it scream Haz waste. To apply to SW it makes me very nervous. Keep in concept of turnover.</li> <li>• There is still the need to address the larger issue of sham recycling.</li> </ul>
<p><b>How we move forward:</b></p> <ul style="list-style-type: none"> <li>• Need to be clear on what the problems that we need to solve.</li> <li>• Clarify our goal as a group and establish what do we want to accomplish</li> <li>• Interest in looking at guidance criteria – we should each list some of them and we talk about a direction we want to go in.</li> </ul>	