

Legal Framework for Management of Solid Waste

MSWMAC Workshop

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CONTENTS

- Governance--County's and cities' responsibilities for solid waste management
- Environmental Regulation—environmental laws and permits that apply to operation of King County's solid waste management system

RCW 70.95

Solid Waste Management Act

- Places primary responsibility for managing solid waste on local governments (cities and counties)
- Two main requirements:
 - Conduct comprehensive solid waste management planning
 - Ensure adequate handling (e.g. collection and disposal)
 - *Ventenbergs v. City of Seattle*, 163 Wn.2d 92, 178 P.3d 960 (2008)
 - *Weyerhaeuser v. Pierce County*, 125 Wn.2d 26, 873 P.2d 498 (1994)

Comprehensive Solid Waste Management Plan

- Counties and cities each required to prepare a plan
- Plan must be approved by Department of Ecology
- Mandatory Elements (RCW 70.95.080, .090, .092), including:
 - Inventory of existing solid waste handling facilities and 20-year projected needs
 - Program for developing handling facilities consistent with plans for entire county; 6-year construction and capital acquisition program
 - Plan for financing solid waste management system
 - Inventory and 6-year projection of solid waste collection needs
 - Assessment of plan's impact on collection costs
 - Waste reduction and recycling element, including source separation strategies

Comprehensive Solid Waste Management Plan

- City may prepare its own plan for integration into comprehensive county plan or agree that county may prepare plan
- Under current ILA, parties agree County will prepare one plan for all parties
- ILA requires plan be approved by County and by cities representing $\frac{3}{4}$ of incorporated population of cities who are parties to agreement and who formally act within 120 days of receipt

County Authority For Solid Waste Handling

- RCW 36.58 authorizes County to provide for solid waste handling system for unincorporated areas
- County not authorized to operate a collection system
- UTC regulates haulers who collect solid waste in unincorporated county
- Option of establishing publicly-owned system, or using other publicly- or privately-owned systems.
 - Current King County disposal system (transfer stations/landfill) is publicly owned.
- King County Code Title 10—Solid Waste Code regulating County's disposal system

City Authority For Solid Waste Handling

- City Responsibilities
 - Under RCW 70.95, cities must plan for solid waste handling, including solid waste collection and disposal.
 - Cities are responsible for ensuring that solid waste is adequately managed and that there is adequate capacity in the system for collection and disposal.
 - Cities are not, however, required to collect or dispose of solid waste themselves, as long as an adequate system exists for doing so.

City Authority For Solid Waste Handling

- Let the WUTC Regulate Collection
- Grant Franchise(s) to Public and Private Companies
- City Options for Solid Waste Handling
- Contract with Another Public Agency
- Contract with a Private Solid Waste Company
- Provide City Solid Waste Service

City Options For Solid Waste Handling

- Option 1: Let the WUTC Regulate Collection
 - In the absence of city action directly providing for collection, the WUTC will determine service areas, rates, and conditions under which private solid waste collection companies may serve customers within the city.
 - WUTC regulates private solid waste companies through enactments called tariffs.
 - Services must be consistent with local comprehensive solid waste management plans.
 - Once adopted, a tariff has the force and effect of law.
 - WUTC regulates collection, not disposal and other solid waste handling activities. Those activities must be provided for by other means.

City Options For Solid Waste Handling (cont'd)

- Option 2: Grant Franchise(s)
 - RCW 35A.47.040 (code cities), RCW 35.22.280(7) (first class cities), RCW 35.23.281 (second class cities), and RCW 35A.27.330 (towns) authorize the granting of franchises for the use of city streets by private companies and public agencies.
 - Although adopted by ordinance, a franchise has the legal status of a contract.
 - A franchise with a private solid waste collection company must be consistent with tariffs adopted for the private company by the WUTC.
 - A franchise with a private solid waste collection company can contain terms not in conflict with WUTC tariffs if city and franchisee agree.
 - A franchise may include disposal provisions.

City Options For Solid Waste Handling (cont'd)

- Option 3: Contract with Another Public Agency
 - The Interlocal Cooperation Act (RCW 39.34) allows two or more public agencies to contract for the purpose of providing services that either would be authorized to provide individually.
 - Cities are authorized to provide solid waste collection and disposal service under RCW 35.21.120 so they may contract with each other for the provision of such services.
 - Cities are also authorized to contract with other public agencies for solid waste collection and disposal under RCW 35.21.152.
 - Counties are authorized to provide for solid waste disposal, but not collection. In King County, most cities contract with the County for disposal and provide for collection by one of the other options.

City Options For Solid Waste Handling (cont'd)

- Option 4: Contract with a Private Solid Waste Company
 - RCW 35.21.120 - 35.21.158 authorize cities to contract with private solid waste companies to provide collection and disposal services.
 - When a city contracts with a private solid waste company for solid waste collection, RCW 81.77.020 provides that WUTC regulations on solid waste collection companies cease to apply.
 - The relationship between the city and the solid waste company is governed by the contract, which can regulate service areas, rates, billing procedures, disposal requirements, and other conditions of service.

City Options For Solid Waste Handling (cont'd)

- Option 5: Provide City Solid Waste Service
 - Under RCW 35.21.120, a city may provide solid waste handling, including collection and disposal service, using its own officers and employees.
 - Solid waste collection and disposal provided directly by a city is exempt from WUTC regulation under RCW 81.77.020.
 - A city has complete control over rates, services, and billing procedures within the bounds of the law.

PART II—ENVIRONMENTAL REGULATIONS FOR OPERATION OF SOLID WASTE SYSTEM



Solid Waste Laws

- *RCW 70.95 Solid Waste Management Act*
 - Incorporates federal requirements from RCRA Subtitle D
- RCRA Subtitle D--Regulates Solid Waste, including Municipal Solid Waste
- RCRA Subtitle C—Regulates Hazardous Waste
- King County's disposal system is regulated as a solid waste system under Subtitle D.

Solid Waste Laws

- DOE adopts state-wide regulations:
 - WAC Chapter 173-351 *Criteria for Municipal Solid Waste Landfills*
 - Siting and operational standards for MSW landfills
 - WAC Chapter 173-350 *Solid Waste Handling Standards*
 - Standards for operation of other types of handling facilities, e.g. transfer stations and drop boxes
- KCBOH Title 10 *King County Board of Health Solid Waste Regulations*
 - Incorporates DOE regulations

Solid Waste Laws

- Regulations implemented through Solid Waste Handling Permits for landfill, transfer stations and drop boxes
- Permits issued by Public Health—Seattle & King County after review by DOE
- Permits enforced by Public Health with assistance from DOE and Puget Sound Clean Air Agency
- Permits can be suspended/revoked if noncompliance

Solid Waste Laws

- Transfer Station/Drop Box Permits include:
 - Control of impacts such as odors, dust, litter, rodents/vectors
 - Operations Plan
 - Weekly inspections of facility
 - Annual reports to Health Dept. and DOE

- Cedar Hills Landfill Permit includes extensive regulation to protect human health and environment, including:
 - Groundwater and gas monitoring and leachate collection
 - Operations Plan
 - Closure and Post-Closure Requirements
 - Financial Assurances

Solid Waste Laws

Unacceptable Waste

- Permits include waste acceptance and screening requirements, limiting types of waste to be disposed
- King County Public Rules and Regulations:
 - *Waste Acceptance Rule for King County Solid Waste Division's Solid Waste Handling Facilities, PUT 7-1-5(PR)*
 - *Waste Clearance Policies for King County Solid Waste Division's Solid Waste Handling Facilities, PUT 7-2-1(PR)*
 - Copies: your.kingcounty.gov/solidwaste/facilities/documents.asp
- Unacceptable waste includes:
 - nonhazardous materials, such as major vehicle parts, burning/smouldering material, odorous waste
 - regulated dangerous waste

Regulation of Hazardous/Dangerous Waste

- Primary law = State Hazardous Waste Management Act (RCW 70.105; WAC 173-303)
- DOE implements RCRA Subtitle C hazardous waste requirements through state law
- Known as “dangerous wastes”
- Extensive cradle-to-grave regulation
 - Generator waste designation and EPA/state ID#
 - Generator container, storage, management requirements
 - Manifests for transport

Regulation of Hazardous/Dangerous Waste

- Must be disposed of at Subtitle C hazardous waste facility (“TSD” facility)
- Some dangerous wastes exempt from regulation under RCRA and State HWMA
 - Small Quantity Generator—generate less than 220 lbs/month; conditionally exempt from most regulations (e.g. dental office, one-hour photo shop)
 - Household Waste—includes dangerous/hazardous wastes in household garbage

RCRA vs. CERCLA/MTCA

- RCRA is forward-looking
 - Primarily regulates ongoing activities to prevent releases of contaminants to environment
- CERCLA/MTCA are backward-looking
 - Require cleanup of releases of contaminants to environment
- Household hazardous substances in municipal garbage are not regulated under RCRA/HWMA, but *are* regulated under CERCLA/MTCA

Other Applicable Laws/Permits

- Federal Clean Water Act and State Water Pollution Control Act
 - National Pollutant Discharge Elimination System (NPDES) and State Waste Discharge General Permit for Industrial Stormwater Discharges, issued by DOE
 - Wastewater Discharge Permits, issued by King County Wastewater Treatment Division
- Federal and State Clean Air Act
 - Air Operating Permit for landfill
 - Issued by Puget Sound Clean Air Agency; reviewed by U.S. EPA and DOE