CALPORTLAND®

March 16, 2018

Department of Ecology
Attn: Mr. Kyle Dorsey
Waste to Resources Program
P.O. Box 47600
Olympia, Washington 98504-7600

Subject: CalPortland Comments Draft Solid Waste Rules WAC 173-350

Dear Mr. Dorsey,

CalPortland appreciates the opportunity to offer comments and suggestions on the Department of Ecology's Draft Solid Waste Rule WAC 173-350.

Overall Comment: CalPortland is pleased that the Agency has taken the necessary time to conduct meaningful outreach to stakeholders and craft a proposed rule which is both fair and balanced. Thank you. CalPortland is submitting the following comments:

1. Definition of Clean Soil (page 9). The agency has chosen to define clean to include a pH range of 4.5 to 9.5 for soils which may contain a constituent that could affect pH. This is an unrealistic standard
   a. First - many soils naturally occur up to a pH of 10.0 (CalPortland can provide data upon request) and the standard for impacted soils should mimic the pH found in nature
   b. Second, composted soils are allowed a pH range of 5 to 10 (see page 41). A composted soil is an amalgamation of many raw materials which may impact the pH of the soil. Ultimately, composted soils are typically placed at the ground surface and are exposed to precipitation and runoff. It seems contrary to allow composted soils to have an upper pH limit of 10.0, when otherwise the clean soil definition only allows a pH of 9.5

   CalPortland requests the Agency correct this discrepancy and harmonize the standard to allow clean soils up to a pH of 10.0.

2. Definition of Cured Concrete (page 11). The Agency is attempting to quantify the parameters which define cured concrete by adding an arbitrary time period of 28 days and invoking a compressive strength of 1200 psi. First, the selection of 28 days to define cured concrete is randomly selected and not germane. The Sand and Gravel General Permit (page 26) uses the term "unhardened" to account for

fresh return concrete which has not solidified. The Agency should adopt similar language for this definition of Cured Concrete. Second, the ASTM test method for testing concrete for compressive strength (Method C39) relies of standard test cylinders made according to ASTM Standard C470. There is no ASTM standard test or other known method to test the compressive strength of piece of broken concrete. The language related to the compressive strength of 1200 psi should be removed from the definition of cured concrete as it is impossible to accurately ascertain this value. CalPortland is making this comment again as the language has not changed from the Preliminary Draft Permit.

3. The Positive Market Valuation test. The Agency has proposed the use of market value proposition (page 4) as a test of whether a material is defined as a solid waste. Materials with a positive market value at the point of generation are not considered solids wastes, while most other materials fail the test and are deemed solid wastes. This is misguided, as the Agencies interpretation favors those materials with high inherent market values (steel, other metals, papers etc.) over other materials with lower inherent market value. In the case of broken concrete and other similar materials that are heavy and expensive to transport, the agency should consider the larger picture. Broken concrete is an inherent part of the economy and the healthy recycling of this material diverts it from consuming valuable landfill space. The agencies test pre-determines this material to be considered a solid waste which hinders the ability for this material to be recycled. For example:

Consider a ton of concrete generated at a concrete plant from excess material returned from a jobsite. The generator has a choice of either sending this material to a landfill for disposal at $46/ton or sending this material to a local concrete recycler for $10/ton. Naturally the generator sends this material to a recycler as this represents a cost savings of $36/ton and the generator sees this decision as creating positive value for his/her business. The concrete recycler receives the ton of concrete and then will spend between $10 and $12 per ton to store, move, crush and sell the material ultimately for $6/ton. The concrete recycler ultimately generates $6/ton positive cash flow.

In the case where the concrete is sent to landfill no positive market value is created. The generator incurs a fee of $46 and the recycler who does not receive the ton of raw material is deprived the ability to generate income.

The Agency should re-consider the Positive Market Valuation and consider that the recycling of this material is often a two-party operation. The language should be modified to "net positive market value". Materials which have a net positive value in the market should be exempted from solid waste regulations.

4. Piles Rule CalPortland supports the Agencies inclusion in Table 320a (4) for an exemption from regulation for facilities which are already covered by Ecology's Sand and Gravel General Permit. This decision is a practicable and common-sense way to avoid duplicate regulation of the same entities.

5. Duplicate Jurisdiction: Table 210-A (2) provides the specific exemption requirements for facilities recycling concrete. Specifically, this requires any facility recycling concrete for re-sale to allow inspections by the jurisdictional JHD as well as annual throughput reporting. There are many concrete plants that accumulate return concrete, crush and resell this material, BUT do not accept concrete from outside sources. These facilities are not currently under JHD jurisdiction and this rule represents a change in reporting obligations. These same facilities are also subject to the Piles section of the rule, but will receive Piles Permit exemptions when the facility has a Sand and Gravel General Permit. In these cases, there is no need for both the JHD and the Department of Ecology Sand and Gravel Permit Inspector to inspect and regulate the site. Both agencies would be regulating the same things (pile condition, pile runoff, pile staging etc.) and therefore is redundant. The Agency should amend the proposed rules so that only one agency (Ecology) has jurisdiction in the above-mentioned situation. Table 210a could be modified to include a footnote which says, "In the case where Facilities have Sand and Gravel General Permits the Department has primary jurisdiction."

6. Waste Tires: The definition of waste tires is not clear. The first and second sentences seem to say different things. The first sentence of the definition seems to indicate any used tire is a waste tire, while the second sentence seems to limit this to automobile tires. Please provide clarification

7. Waste Tire Storage: Section 173-350-350 (page 94) includes the regulations for the storage of waste tires. Under 173-350-250(a) the rule applies to facilities with 800 or more automobile tires or the equivalent 8 total tons. Large heavy equipment such as a Cat 988 loader have tires which weigh more than 3000 pounds each. Therefore, the presence of 4 to 5 used heavy equipment tires could trigger this regulation. Heavy equipment tires are very dissimilar to vehicle tires as the overall surface area of 800 tires is far greater than 5 heavy equipment tires. CalPortland believes that the Agency does not intend the regulation to apply in situations where a facility has a small number or large tires but asks the Agency to provide clarification.

Sincerely,

Matthew Hinck
Environmental Manager
CalPortland