

Tacoma-Pierce County Health Department (TPCHD)

Comments on Proposed Chapter 173-350 WAC

March 20, 2018

Section -020 Applicability

- 1) The TPCHD recommends that under item (2) that the rule also exclude (i.e., this chapter does not apply to) solid waste permitting and exemption standards to “Emergency and Disaster Responses”. Some suggested language may include: “In the event a state of emergency is declared, or an imminent risk to public health exists, the jurisdictional health department may temporarily suspend or waive permit provisions or operational conditions, or may impose additional permit provisions or operational conditions, for such period deemed necessary in the sole discretion of the local health officer or his/her designee. To be considered an emergency or imminent risk to public health, the emergency must be declared by the President of the United States, the Governor of the State of Washington, the County Executive or a health order issued by the local health officer as provided by law.”

Section -030 Effective dates

- 2) Page 6, Subsection (3)(ii) – Depending on local jurisdictions, it may be difficult for existing permit exempt facilities, such as MRF’s, now needing a solid waste permit to comply with SEPA requirements in order to submit a “**complete** permit application ... **within twelve months...**” per the proposed rule. From reviewing Section -715 (1)(e), a solid waste permit application is not ‘complete’ until “Evidence of compliance with chapter 197-11 WAC, SEPA rules, including the SEPA lead agency’s determination”, among other information described in this Section -715. The TPCHD is concerned with proposed time limit given that existing permit exempt facilities may need a solid waste permit. Per the proposed rule, these existing facilities will have to close if the SEPA “determination” cannot be issued within the one-year window. The TPCHD currently does not process SEPA applications for solid waste handling facilities needing a permit. The TPCHD relies on the applicable jurisdictional planning departments to process such SEPA applications when a permit is required to be issued for a newly established solid waste handling facility. The proposed rule may be requiring jurisdictional health departments to be the “lead agency” for these existing permit exempt facilities now needing only a ‘solid waste permit’. For the TPCHD, this development of procedures to process SEPA applications and determinations could take a considerable amount of time. Therefore, in such circumstances, will Ecology facilitate “lead agency” permit status for jurisdictional health departments where SEPA is now triggered only due to the requirement for issuance of a solid waste permit to such existing permit exempt facilities?

Section -100 Definitions

- 3) “Clean soil” – The TPCHD does not agree that soils containing up to 2,000 mg/kg of diesel and heavy oil range hydrocarbons are truly “clean soils” and acceptable for “unrestricted land uses”

per Chapter 173-340, Model Toxics Control Act. These soils will typically have a distinguishable petroleum odor and should not be used in the manufacturing of topsoil products. The TPCHD has had multiple experiences in the past where petroleum impacted soils have been incorporated into topsoil products and sold to the public. These instances have resulted in complaints from the public who purchased what they thought was a clean topsoil product, only to find out that it smelled like petroleum and upon testing, was confirmed to contain petroleum constituents. The levels that are being proposed in the rule may very well allow these sorts of examples to become commonplace. Furthermore, if this threshold remains, the TPCHD anticipates that generators of diesel and heavy oil petroleum hydrocarbons soils could abuse this criteria threshold by diluting these impacted soils to avoid disposal costs. The TPCHD strongly recommends using the 'old' MTCA A standard of 200 mg/kg for diesel and heavy oil range hydrocarbons. This lower threshold for diesel and heavy oil hydrocarbons will provide jurisdictional health departments a state-wide regulatory standard to competently address the two common potential abuses raised in this comment if the standard for petroleum hydrocarbons remains at 2,000 mg/kg.

- 4) "Detachable containers" – The TPCHD recommends that the definition include transfer trailers and transfer containers for clarity. See TPCHD Comment #15 under Section -300 for context.
- 5) "Domestic septage" – The TPCHD recommends that the definition be updated by removing the Class I-III classifications in order to be consistent with the most current version of WAC 173-308, *Biosolids Management Rule*.
- 6) "Inert Waste" and "Inert Waste Landfill" – These definitions were removed from the proposed version of the rule. The TPCHD recommends that these definitions remain in the definition section of the rule.
- 7) "Lower explosive limit" – The TPCHD recommends improving the clarity by removing the words "below" and "does not" from the proposed definition. Therefore, the definition should read "the minimum concentration of vapor in air which propagation of a flame occurs in the presence of an ignition source."
- 8) "Manufactured topsoil" – The TPCHD recommends including "yard debris" to the list provided in the last sentence. Therefore, the definition should read "... Manufactured topsoil containing solid waste such as, but not limited to, yard waste, laminate, plastic, or asphalt shingles, not otherwise excluded from this chapter, is subject to management under this chapter."
- 9) "New solid waste handling unit" – The term "significant modifications" is used in this definition. The rule should incorporate the definition of "Significant modifications" in the definition section of the rule. The TPCHD would appreciate if the department could provide jurisdictional health departments (during rule implementation training) with some common examples when such significant modifications would trigger solid waste permitting modifications.

- 10) “Tip floor” or “Tipping Floor” – These words are used in Sections -210 and -310 of the rule and, therefore, need inclusion as a definition. The TPCHD recommends that the definition of “tip floor” (or “tipping floor”) includes all areas of collection, staging, and receiving for incoming waste at a solid waste handling unit.

Section -210 Recycling and material recovery facilities

- 11) Subsection (4)(e) – The words “tip floor” are used in this subsection and therefore should be defined in the “Definition Section” of the rule. Alternatively, the words “receiving area” could be used to more accurately describe that all incoming waste (tip floor and staging areas) to a facility must be conducted on an impervious surface.
- 12) Subsection (4)(f) – The words “tipping floor” are used in this subsection and therefore should be defined in the “Definition Section” of the rule. The definition should encompass that other temporary storage areas of incoming wastes need to be protected from precipitation, not just the active tipping floor itself. Alternatively, the words “receiving area” could be used to more accurately describe that all incoming waste (tip floor and staging areas) to a facility must be covered to protect wastes from precipitation. This clarification is necessary to jurisdictional health departments because there may be existing MRF’s that stage incoming commingled bales of recyclables outside of the “tipping floor” of the facility until such time as they can be processed through the facility.
- 13) Table 210-A (2) – The TPCHD strongly recommends that the rule requires that 50% of the materials be recycled annually and setting an upper quantity limit under the “Specific Requirements for Activity or Operation”. This would provide the jurisdictional health departments the necessary tools to monitor such operations to prevent the abuse of this exemption category.

Section -240 Energy recovery and incineration facilities

- 14) Subsection (1)(b)(ii) – Is landfill gas being recovered to generate power or converted to liquified fuel exempt from solid waste permitting per Section -021(3), Determination of solid waste (i.e., meet the criteria of “no longer a solid waste”)?

Section –300 On-site storage, collection, and transportation standards

- 15) Subsection (2)(b)(iii) – The TPCHD’s experience is that walking-floor/live-bottom transfer trailers can leak liquids from the trailer’s floor (sometimes significantly: late spring Western Washington curbside yard waste, for example), either by the trailer’s inherent construction technology and/or due to wear and tear. Therefore, for these “detachable containers” that are known to leak, the standard in this section of the rule needs to also require an alternative to “nonleaking”. The TPCHD recommends that a sentence be added to this item (iii) to include: “or proper containment and management of spilled/leaking leachate at the staging areas”. Providing this alternative to simply “nonleaking” in these circumstances would provide the

generators/haulers/site owners and the jurisdictional health departments the regulatory standard to properly contain and manage leachate at the staging areas for walking-floor/live-bottom transfer trailers.

Section -310 Transfer stations and drop box facilities

- 16) Subsection (4)(a)(v) – The TPCHD recommends clarifying “tip floor” to include all areas of the facility that accept, store, and process waste materials. Alternatively, TPCHD suggests using the words “receiving area”.
- 17) Subsection (4)(a)(vi) – The TPCHD suggests changing “tipping floor” to “receiving area” or define “tipping floor” in the definition section to encompass all areas where wastes are managed at the facility. The rule should also provide more clarity on how this requirement applies to transfer stations and drop boxes where wastes received by the public are being directly deposited into transfer trailers or drop boxes. In other words, is there a “tipping floor” in these circumstances? Should the waste being dumped in these open trailers and drop boxes be protected from precipitation? If so, the rule should be clarified to encompass these circumstances.
- 18) Subsection (4)(a)(vii) – The TPCHD suggests clarifying that leachate from the tipping floor/receiving areas and ancillary areas (e.g., trailer loading areas where washdown water is generated and where waste spillage occurs) of the facility must be properly contained and managed.
- 19) Subsection (4)(b)(ii) – The TPCHD recommends replacing the words “drop boxes” with “detachable containers” to be consistent with the definition of “Drop box facility”.
- 20) Subsection (4)(b) – The TPCHD recommends adding (iii) to include the requirement that the detachable containers are placed on an impervious surface to prevent contamination of soil and groundwater and to improve the cleaning of spilled solid waste at a drop box facility.
- 21) Subsection (6)(a)(iv) – The rule should require that all waste be removed from the tipping floor/receiving areas and the solid waste facility’s ancillary areas (e.g., the transfer trailer load out area) at the end of each operating day unless in a fully enclosed building (i.e., “indoor storage” as defined in the rule). This requirement would give the jurisdictional health departments the tool they need to assure that wastes are removed or isolated from vectors and wind during the facility’s non-operating hours.
- 22) Subsection (6)(b)(iv) – The TPCHD recommends clarifying “tipping floor” to include all receiving and processing areas and ancillary areas of the facility such as the trailer loadout areas.

Section -320 Piles used for storage or treatment

- 23) Table 320-A, Item (2) Agricultural waste and on-farm vegetative wastes stored on farms – The TPCHD recommends to slightly modify the language to include that these wastes may be used at other appropriate sites such as other farms. Therefore, the “Volume, Storage Time, and Capacity Requirements” for this item could read: “The duration of storage of the entire pile is limited to one year and limited to the amount that will be applied to the site or other appropriate sites during a one-year period. Subsequent....”
- 24) Table 320-A, Items (1) and (3) - The rule specifically calls out “nonferrous metals” in this table. The TPCHD recommends that the pile exemptions in this section of the rule should also pertain to “ferrous metals”. Or, the TPCHD supports removing reference to both metal categories if it is the intent of Ecology that these categories typically meet the criteria established by Section - 021(3), Determination of solid waste, to be “no longer a solid waste”.
- 25) Subsection (10) – It appears that the citation of (11)(a) in the first paragraph is incorrect. The citation should be (12)(a).
- 26) Table 320-A (4)– As stated in item (3) of this table, the TPCHD also supports including the requirement for removal of 50% annually and an upper volume limit under “Volume, Storage Time and Capacity Requirements”. This would provide the jurisdictional health departments the necessary tools to monitor such operations to prevent the abuse of this exemption category and prevent sites from becoming above ground landfills for eternity.

Section -355 Waste tire transportation

- 27) Applicability (d) - The United States, the State of Washington, and local governments and their contractors should also have to use a licensed tire transporter. The clean-up of waste tire piles is the appropriate time for using a licensed tire transporter.

Section -410 Inert waste landfills

- 28) Table 410-A – The TPCHD does not agree with the exemption category in Item (2) and proposes its removal from the rule. The TPCHD proposes to remove this category from the rule as this permit exemption does not support the beneficial recycling of this material if operators are allowed to create these midsize inert waste landfills.
- 29) Subsection (8)(b) – The TPCHD recommends that the closure of inert waste landfills should include capping and vegetating the fill with a minimum of two-feet of clean soil. This requirement of a soil cover would eliminate physical hazards and minimize erosion (e.g., wind, precipitation) at the closed inert waste landfill.