

NUCOR
BAR MILL GROUP
NUCOR STEEL SEATTLE, INC.

Date: March 15, 2018

To: *Submitted Online*
Kyle Dorsey
Department of Ecology
Waste 2 Resources Program
PO Box 47600
Olympia, WA 98504-7600

Re: Solid Waste Rules Update Comments

Mr. Dorsey,

I am writing on behalf of Nucor Steel Seattle, Inc. (“Nucor”) to express concern about the proposed revisions to Washington’s solid waste management regulations codified in WAC 173-350 and their potential impact on the manufacturing and industry. Nucor owns and operates a steel mill in Seattle that produces steep products in Pacific Northwest from nearly 100 percent scrap steel. This mill has been in operation since 1905 and is Washington’s largest recycler.

Nucor requests response to the following comments on the proposed rule:

1. In general, the proposed rule appear to be more directed at facilities that receive solid waste than facilities that generate and store solid waste for disposal off-site at another, presumably permitted facility. It would be helpful if, like the dangerous waste regulations, requirements are more clearly defined for generators as opposed to receiving facilities (including transfer facilities).

For example in Table 320-A Terms and Conditions for Solid Waste Permit Exemptions, wood waste, non-ferrous metals, brick, cured concrete, or asphaltic materials are exempt from permitting if over 250 cubic yards are stored on-site and the facility at the end of each calendar year, the facility has removed at least 50% of the sum of the volume of all waste present at the start of the calendar year and of the volume of all waste accepted during the calendar year. Reading further, WAC 173-350-320 (2)(a)(iv) refers to “facilities accepting multiple waste materials listed in 320-A”. This seems directed at facilities receiving waste and leaves the generator of such materials wondering whether the section is applicable.

Nucor suggests providing additional guidance or definition as to whether generation is considered acceptance. For many generators, including Nucor, generation rates cannot be directly measured and generation is tracked via the rate of disposal. This creates circular logic with the exemption terms of Table 320-A.

2. It is unclear what is the underlying intention of 173-350-020(2)(y) is. If one generated contaminated soil from a historically impacted site, and the soil did not designate as Dangerous

Waste, then one could presume the soil is not regulated or regulated by the Solid Waste Regulations depending on the order in which the rules are read. If they were trying to determine how the soil would be regulated and first read 173-350-020(2)(y) which states:

(2) This chapter does not apply to the following:

- (y) Contaminated soil, as defined in WAC 173-350-100, placed at or near the location of generation within a project site;

In this scenario, contaminated soil would not be regulated under WAC 173-350 or WAC 173-303. Usually, this soil would be stockpiled for off-site disposal. However, 173-350-020(2)(y) gives the impression that there are no requirements for managing this soil on-site and in fact off-site disposal isn't even required.

It is understood that under 173-350-021(2) a material is considered a solid waste if the material has been discarded, abandoned, or disposed of. However, this section comes after 173-350-020(2)(y) so the soil – which could be considered discarded and a solid waste determined by 173-350-020 – would not be regulated by WAC 173-350 because “the chapter” doesn't apply to this soil per 173-350-020(2)(y).

Nucor requests additional clarity on the precedence amongst sections of the rule and guidance, potentially a flow chart, on how to manage soils with varying levels of contamination (e.g. clean, below MTCA, below Dangerous Waste, ect.) and different final dispositions (e.g. reused on-site, applied to land off-site, disposed of via Subpart D landfill, etc.).

3. The definition of clean soil incorporates large segments WAC 173-340 and its inherently laborious methods for determining if one has “clean soil” and therefore if the soil is solid waste, or at least regulated by WAC 173-350. For example, the definition of clean soil requires one to establish theoretical cleanup levels for the soil in question. However cleanup levels are site specific, can be risk based, and are typically used for remediating a site.

Many facilities with a long history of industrial operations will find it difficult to determine whether sampled levels represent typical background or are evidence of a potential release. Additionally since cleanup levels are based on the final location of soils but may be handled or disposed of via an intermediary, generators may not be able to accurately designate soils. Based on Nucor's understanding of the rules, a generator could relocate soils as 'clean soils' based on its intended final location but if an intermediary chooses to send it to another location, the generator could be liable for improper disposal of contaminated soils.

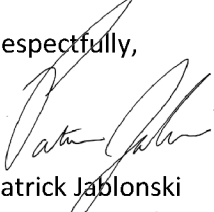
4. In the world of hazardous waste management, hazardous waste (and/or dangerous waste) is a subset of solid waste. However, the various definitions and applicability examples do not seem to have any utility in WAC 173-303. The definition of solid waste in WAC 173-350-100 is significantly different than the definition in WAC 173-303-016(3).

Ecology should consider aligning these two definitions for utility in either rule. By not doing so, generators and facilities have two complex sets of definitions to analyze in order to determine how their waste should be managed. Nucor believes that the definition in updated WAC 173-350-100, which excludes explicit references to slag, is the more accurate definition given the recent statutory exemption of electric-arc-furnace slag from solid waste regulations. At the very

least, the starting point should be the same and that is whether the waste is a solid waste and if the rest of the chapter applies.

Please contact myself or Sean Wilson, Environmental Engineer, at (206) 933-2223 if you have any questions or comments.

Respectfully,

A handwritten signature in black ink, appearing to read "Patrick Jablonski". The signature is fluid and cursive, with a large initial "P" and "J".

Patrick Jablonski
Environmental Manager
Nucor Steel Seattle, Inc.