

March 20, 2018

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Re: Seattle Public Utilities Comments on Draft WAC 173-350 Solid Waste Handling Rule Revisions

Thank you for the opportunity to review the final proposed Rule revision and to provide comments.

1) Section 021 – Determination of Solid Waste Section Questions:

- Ecology may want to review the implications of this section particularly the requirement of a material needing to have a positive market value in light of the China National Sword international impacts. Some commonly recycled materials such as mixed waste paper may now actually have a negative value. The economic criteria of a material needing a positive market value should be amended with language that recognizes the periodic uncertainty of recycling end markets due to circumstances out of the control of the recycling industry even with best processing efforts to meet stringent contamination specifications.
- Mixed plastic bales may also have a negative value until further sorted by resin type and material which may only be accomplished by moving those materials to a Canadian company for the further sorting and processing. If the mixed plastic bales are a solid waste according to this section, then would this imply that only certificated haulers can transport those bales for further sorting and processing?
- Clarification is needed on the status of recycled asphalt shingles (RAS), once processed to meet specifications to be used as a component in hot mix paving. Would RAS still need to be regulated as a solid waste and would a hot mix producer need to obtain a solid waste handling permit to have such material piled on site for use as part of a hot mix blend? What manner of storage would be required for such material to present little or no risk to human health and the environment?

2) Section 100 - Definitions for Contaminated Soils and Dredged Materials – Receiving Locations

- The current definitions have unintended implications for temporary or intermediate storage locations where municipal utility operations store temporary piles of contaminated soils or contaminated dredged materials. These intermediate

locations are necessary to facilitate immediate removal and restoration of soils/dredged material from the public right-of-way and easements. Once in temporary storage, the soils can be further characterized prior to removal and disposal at final permanent locations.

SPU proposes that the definitions be revised to only apply to final placement of materials. Please insert “permanent” before “placement” each time it appears in the rule. This would relieve a temporary storage facility from piles permitting (-320) and from having to establish acceptance limits as a limited purpose landfill would:

Clean Dredged Material – means dredged material that does not contain contaminants from a release. It also includes dredged material that contains one or more contaminants from a release and when moved from location to another for permanent placement on or into the ground:

- (a) Does not contain contaminants at concentrations that exceed a cleanup level under chapter 173-340 WAC, Model Toxics Control Act – Cleanup, that would be established for the permanent location where dredged material is placed; or
- (b) Contains contaminants that affect pH, but pH of the dredged material is between 4.5 and 9.5 or within natural background pH limits that exist at the location where dredged material is permanently placed.

Contaminated Dredged Material – means dredged material containing one or more contaminants from a release and when moved from one location to another for permanent placement on or into the ground:

- (a) Contains contaminants at concentrations that exceed a cleanup level under chapter 173-340, Model Toxics Control Act – Cleanup, that would be established for the permanent location where dredged material is placed: or
- (b) Contains contaminants that affect pH, and pH of the dredged material is below 4.5 or above 9.5 or is not within natural background pH limits that exist at the permanent location where dredged material is placed.

An example of a contaminated dredged material may include, but is not limited to, dredged material from surface waters containing contaminants from a release.

Clean Soil – means soil that does not contain contaminants from a release. It also includes soil that contains one or more contaminants from a release and when moved from one location to another for permanent placement on or into the ground:

- (a) Does not contain contaminants at concentrations that exceed a cleanup level under chapter 173-340 WAC, Model Toxics Control Act - Cleanup, that would be established for the permanent location where soil is placed: or

- (b) *Contains contaminants that affect pH, but pH of the soil is between 4.5 and 9.5 or within natural background pH limits that exist at the permanent location where soil is placed.*

Contaminated Soil – *means soil containing one or more contaminants from a release and when moved from one location to another for permanent placement on or into the ground:*

- (a) *Contains contaminants at concentrations that exceed a cleanup level under chapter 173-340 WAC, Model Toxics Control Act - Cleanup, that would be established for the permanent location where soil is placed; or*
- (b) *Contains contaminants that affect pH, and pH of the soil is below 4.5 or above 9.5 or is not within natural background pH limits that exist at the permanent location where soil is placed.*

3) **Section 100 - Definitions for Contaminated Soils and Dredged Materials – Model Toxics Control Act References**

The current definitions appear to place the burden of proof on the generator by using the terms “...when moved from one location to another ...”.

In cases where “another location” is owned or operated by a party other than the generator, the burden of proof should be shared by the generator and the receiving facility or location. The generator cannot be held responsible for identifying or establishing the MTCA acceptance limits of a disposal site.

The final/permanent disposal site (facility) should be required to inform their customers about their MTCA-related waste acceptance criteria. This burden should be emphasized in the rule through requirements for limited purpose and inert waste landfills to develop and adequately document a waste review/approval process prior to waste acceptance.

4) **Section 220 - Recycling and Material Recovery Facilities**

- Would a facility receiving source separated asphalt shingles for indoor processing qualify for a permit exemption under this section assuming they comply with performance standards and reporting requirements?

5) **Section 360 - Moderate Risk Waste Permit Requirements:**

Section 173-350-360 (6) (a) (ii) (F): *Containers of MRW are stored in a manner that allows for easy access and inspections. Drums containing MRW must have a least one side with a minimum of 30 inches of clear aisle space.*

SPU recommends differentiating Hazardous Treatment, Storage and Transfer Station Disposal (TSD) Facilities from Household Hazardous Waste (HHW) collection sites operated by local governments. HHW collection sites typically have limited space and are not set up

for long-term storage purposes. SPU accepts HHW from the residents, containers are packed until full and drums are then shipped off to a TSD facility within a short period of time, typically around 10 days. The 30-inch clearance requirement for clear aisle space can pose space constraints and should not pertain to municipal HHW collection sites particularly if the facility has secondary containment. The 30-inch rule is based on federal requirements for storage of dangerous and extremely dangerous waste for an extended time sometimes more than one year. Municipal household hazardous waste collection sites more resemble the proposed permit exempt “limited moderate risk waste facilities” category (which in Ecology’s definition only take batteries, waste oil and waste antifreeze) than TSD operations.

Ecology should consider creating another permit category for Household Hazardous Waste collection sites with very short retention time of containers (10 days or less) to differentiate them from TSD facilities in the permitting structure. Such facilities would need to be permitted (in contrast to the proposed “limited moderate risk waste” facilities) since they receive a wide variety of HHW from residents. The permit requirements should include an operations plan, personnel training, container labeling, flammable vapor monitoring systems, secondary containment features, reporting and notification of spills. Flexibility should be allowed regarding the 30-inch rule, since it greatly reduces the available space for drums which are going to be shipped off site quickly once filled. Such a modification would be beneficial in reducing public program costs and keeping HHW out of solid waste landfills.

6) Section 400 – Limited Purpose Landfills – Permit Requirements – Operating

Under WAC 173-350-400 (6) (a) (ii), add to that requirement “Provide acceptance criteria to generators and review wastes for approval prior to acceptance”.

Under WAC 173-350-400 (6) (a) (vi) add to that requirement “A description of how operators will maintain operating records of the amounts (weight or volume), source and types of waste received”.

7) Section 410 - Inert Waste Landfill Permit Requirements - Operating

Under WAC 173-350-410 (6) (a) (ii), add “Provide acceptance criteria to generators and review wastes for approval prior to acceptance”.

Under WAC 173-350-410 (6) (a) (vi) add “source” to “A description of how operators will maintain operating records of the amounts (weight or volume), source and types of waste received ...”.

Thank you once again for providing many opportunities for the solid waste industry and municipal governments to review and comment on this and earlier preliminary drafts of the WAC 173-350 Solid Waste Handling Rule revisions. It has been a long but thoughtful process which will certainly benefit the environment. It should be noted, however, that clarity will need to be provided by

Ecology on the regulatory status of certain processed materials in this time of economic uncertainty for previously well-established commodities. Please contact Hans VanDusen on SPU at (206) 386-9772 if you have questions regarding our comments.

Sincerely,



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