

City of Vancouver

Tuesday, March 20, 2018

Kyle Dorsey, Rulemaking Lead
WA Dept of Ecology
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Re: Solid Waste Handling Standards Rulemaking WAC Ch 173-350

To Whom It May Concern,

The City of Vancouver appreciates the considerable advisory committee work that went into the rulemaking process for the Solid Waste Handling Standards. The online recordings on the draft standards were very helpful in our understanding of the proposed changes as well. In reviewing the proposed changes to the standards, Vancouver has specific concerns in relation to environmental protections and, specifically, water quality degradation both in terms of surface water runoff and groundwater as it relates to our sole source drinking water aquifer. The proposed standards appear to be less restrictive and "deregulate" some waste streams.

First, the new section WAC 173-350-021 "Determination of solid waste" attempts to make a distinction between commodities and waste by assessing the market value of the material. This addition of "commodities" in this section creates a burden on local municipalities to make a challenging determination of "positive market value" for materials historically considered solid waste and regulated by local public health agencies. Scrap metal operations are of particular concern to the City based on experience with existing, regulated facilities that still struggle to meet water resource protection standards due to highly variable material, uncovered stockpiling of mixed material for processing, and common contaminants in the material (oil, residues, coolants, etc.) that end up in the stormwater system, pollute water bodies, and violate municipal water resource standards. Because barriers to entry into the scrap metal business are very low, with the additional deregulation of this industry, there is a potential for increased small-scale operations with speculative scrap metal accumulation and poor housekeeping, which will inevitably pollute stormwater and degrade water quality. Further, in addition to increased regulation of pollutants on the back end (rather than ensuring companies have systems in place to prevent pollution in the first place), local municipalities would be saddled with the burden of obtaining documentation to support the determination of whether a material is solid waste or a commodity. These determinations and the necessary technical oversight are better suited to public health districts and we urge Ecology to keep these facilities as regulated or even exempted solid waste facilities.

Related to scrap metal operations, the definition of source separated materials seems to exempt similar operations. Table 210-A indicates these source separated materials are describes as "examples of individual material streams are loads composed solely of cardboard, mattresses or metal of one type or several types". Since scrap metal operations typically pay the generator, this seems to indicate in the previous definition that it is a commodity. Separating metal materials from other solid waste in order to resell the metal material appears to be a solid waste handling operation. This is a more appropriate application of the standards because very little scrap metal comes into a facility without processing. Again, keeping scrap metal facilities as a solid waste operation under the local public health authority's oversight is our request.

Without public health authority oversight, the only requirement for scrap metal operations will be a business license, which is not subject to regulatory or enforcement oversight. In the past, business licensing information has not been quality controlled and despite over a year of monitoring incoming licenses, the City's water resource protection program has found the information lacking with nearly half of simple mailings returned. We are not confident scrap metal operations will get licenses or that licensing will provide any oversight or incentive for housekeeping practices that are protective of water resources.

Second, the definition of "impacted soil and impacted sediment" also appears to be a less protective standard. The adoption of MTCA standards for the definition of "clean" or "contaminated" soil is not an appropriate application of that regulation or a suitable mechanism for oversight of these operations. Street waste, and material collected by vactor and sweeper trucks, would not be required to be permitted under the proposed standards and would not have necessary oversight from local public health districts. Local municipalities have managed this material and struggled to handle it appropriately but using MTCA cleanup requirements to characterize this material places a burden on municipalities required by NPDES stormwater permits to collect and handle this material. Further, a variety of contamination is possible in street waste that would not exceed cleanup standards but that does not mean land applying, stockpiling or otherwise managing this material is appropriate as "clean" soil. Street waste is routinely collected in a wide context of land use and runoff characteristics that may not be obviously contaminated and it is not obvious that state cleanup program standards are adequate to address water quality, groundwater or soil contamination issues. Regulatory oversight of this material by local public health districts as a solid waste provides necessary technical and enforcement oversight.

Soil characterization is also a major concern for large fill and quarry reclamation areas where local municipalities can assume oversight from the DNR following issuance of a local grading permit. This type of work does not assume that low-level contamination is present, nor does it fully account for common sources of fill soil that may contain contaminants. The test parameters previously listed in the first draft of the standards and the associated technical guidance would be helpful for implementing an oversight program but this authority should be included with local public health district oversight of similar solid waste operations. Low-level contamination, particularly as it relates to petroleum products, benzene and other common constituents routinely seen in underground storage tank soils, for example, are excluded from MTCA but should still be regulated to protect public health and the environment. The City is particularly concerned that granular, well-draining soil and gravel veins present throughout our jurisdiction and common near quarry reclamation projects will expose our drinking water resources to contamination if the proposed and oversimplified definition of "clean" soil is implemented.

Sincerely,

Nikki Guillot
Engineering Specialist