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Comments in the attached file.

Solid Waste Facilities Rulemaking, Chapter 173-350 WAC and Chapter 173-351 WAC Public Comments

WAC 173-351-100 Definitions.

"Municipal solid waste (MSW)" and "Residuals" definitions state that "Residuals as defined in this section are municipal solid waste that must be managed at a municipal solid waste handling facility, unless associated with a specific waste stream such as construction and demolition waste, that a flow control ordinance authorizes to be managed elsewhere."

- How does a flow control ordinance change or modify the physical nature of residual effectively changing its material definition and potential impact to human health or the environment?
- How is residual defined if the specific waste stream is not subject to a flow control ordinance?

WAC 173-351-100 Definitions.

"Salvaging"

- How does "salvaging" effectively differ from "material recovery"?

WAC 173-351-200 Operating criteria.

Subsection (2) requires earthen cover material or alternative cover material to prevent air intrusion.

- Is it possible for cover soil to meet the definition "prevent" for air intrusion or the other cited criteria?

WAC 173-351-200 Operating criteria.

Subsection (3) specifies a maximum 33 percent (3H:1V) side slope.

- How does this criteria take into account available engineered and operational assessments and technologies?
- Does this criteria only apply to exterior closure slopes above the surrounding grade, and not bottom liner slopes? There are vertical liner products that facilitate the lining and filling against mined or quarried areas.
- Limiting the available capacity of a landfill requires more landfills to be developed. Is that a preferred alternative to steeper slopes?

WAC 173-351-200 Operating criteria.

Subsection (5)(c)(i) requires soil gas monitoring wells adjacent to waste.

- If waste is not adjacent to a property boundary, how does this requirement align with the performance requirements of Subsection (5)(a)?
- How does this requirement account for landfill expansions beyond the prescribed well locations?

WAC 173-351-200 Operating criteria.

Subsection (5)(c)(ii) requires a demonstration to determine low potential for adverse impacts on the public health and safety and the environment from wider soil gas monitoring wells spacing.

- What is an acceptable demonstration?
- How is the potential measured, and how is an acceptable level of risk defined?

WAC 173-351-200 Operating criteria.

Subsection (5)(c)(v) requires soil gas monitoring well depth to correspond to the lowest elevation of waste.

- How is proximity to depth of waste accounted for at landfills with large waste footprints?

WAC 173-351-220 Additional operating criteria.

Subsection (7) uses terms like “prevent”, “limit”, “adequately”, and “ensure”.

- Is it possible to compact waste so that it “prevents” air intrusion?
- What measurable considerations should an operator make when assessing what is adequate, limiting, or able to ensure?

WAC 173-351-300 Design criteria.

Subsection (6) requires points of compliance as near to the MSWLF unit boundary as feasible.

- How does this requirement apply to landfills with approved expansion units as part of the site wide landfill permitting? If there is a landfill that is constructing 5-acre piggy-backed units as needed, does this point of compliance requirement perpetually require decommissioning and installation of new monitoring wells at each unit boundary?

WAC 173-351-500 Closure and post-closure care.

Subsection F specifies a maximum 33 percent (3H:1V) side slope.

- How does this criteria take into account available engineered and operational assessments and technologies?

- Limiting the available capacity of a landfill requires more landfills to be developed. Is that a preferred alternative to steeper slopes?

WAC 173-351-730 Contents of applications.

Subsection (4)(c)(iii)(E)(I) requires leachate generation estimates to use precipitation from a wet year (one year in 10 recurrence interval)

- For calculations that run across multiple years, is the intent that a wet year should be used for the initial year, every year, or other frequency?

173-351-780 Enforcement actions and appeals.

Subsection (4)(b) requires appeals of department orders or penalties to be addressed through the pollution control hearings board (PCHB).

- Considering the current backlog of PCHB cases that can take between 12 to 18 months to schedule a Hearing, what is the assessed additional impact to PCHB case backlog from this requirement?
- Considering the time sensitive requirements applicable to solid waste handling practices, what other appeal resolution processes have been considered by the department that won't require multiple years to resolve?
- Appeals to the PCHB is a very detailed and involved semi-judicial process. Has the department considered an appeals process for minor appeals that doesn't warrant escalation to the PCHB?
- What provisions are in place to allow a facility to continue to operate during an appeal?
- If a penalty is incurred from a JHD, and the penalty is removed through appeal, will the department respect that decision, or possibly issue a department penalty?
- If a penalty is incurred from the department, and the penalty is removed through appeal, will the JHD respect that decision, or possibly issue a JHD penalty?

WAC 173-350-100 Definitions.

"Flow control ordinance" is defined as a local law that requires trash haulers to take solid waste in their jurisdiction to a designated facility for processing or disposal.

- Should this be recyclables and trash haulers?

WAC 173-350-100 Definitions.

"Material recovery facility" (MRF) establishes a 75% reuse or recycling threshold to be classified as a MRF.

- How was 75% determined as an appropriate threshold? What considerations were made for different material streams?
- The amount of residual generated is heavily dependent on the feedstock. C&D has a high residual content. Sorting of C&D is appropriate at a designated facility that has trained staff, equipment, and knowledge of realistic end markets for materials. If C&D loads are subject to a 75% threshold, that places the sorting responsibility and end market analysis on every small or large contractor employee in the State at each construction site. Is this the intent of the regulation and how effective is this expected to be in actual application?
- The MRF classification has impacts on land use code for Cities and Counties. A code may allow a MRF, but not a transfer station. How is this being addressed?
- If an ordinance requires recycling of a specific material type, and the department doesn't agree that there is a viable recycle market for that material, then the department won't allow a MRF to collect or separate that material. How will this conflict be resolved?
- If a facility wants to be permitted as a MRF for MSW, that facility would be a transfer station. What additional permitting will be required beyond typical transfer station permitting?
- If a MRF or transfer station will not be allow to separate material without a currently approved viable recycle market by the department, how will new markets develop? A potential new market may target a new recyclable material stream but won't have access to material, and will never develop.

WAC 173-350-100 Definitions.

"Municipal solid waste (MSW)" and "Residuals" definitions state that "Residuals as defined in this section are municipal solid waste that must be managed at a municipal solid waste handling facility, unless associated with a specific waste stream such as construction and demolition waste, that a flow control ordinance authorizes to be managed elsewhere."

- How does a flow control ordinance change or modify the physical nature of residual effectively changing its material definition and potential impact to human health or the environment?
- How is residual defined if the specific waste stream is not subject to a flow control ordinance?

WAC 173-350-100 Definitions.

"Recyclable materials" has an incomplete definition.

WAC 173-350-100 Definitions.

“Salvaging” means the separation of solid waste to be recycled or reused from solid waste to be disposed at a facility that accepts loads containing more than 75% of waste received by weight that will be disposed.

- Should this include transfer and disposal facilities?
- How does “salvaging” differ from “materials recovery”?
- Should the referenced percentage be 25%?
- What limitations will there be on engineered and operational methods to salvage?
- Is salvaging a MRF permit exempt operation, or are there salvage approvals required?

WAC 173-350-100 Definitions.

“Transfer station”

- Does the definition need to be expanded to include activities similar to a MRF such as receives, compacts, repackages, or sorts source-separated recyclable material for the purpose of recycling or reuse?
- The transport is defined to be to a disposal facility. This should be expanded to include destinations for recovered materials.

WAC 173-350-330 Surface impoundments and tanks.

- Will surface impoundment and tank permits be independent of other facility permits or included as part of the larger/primary facility permits?

WAC 173-350-330 Surface impoundments and tanks.

Subsection (3) Surface impoundments and tanks – Permit requirement – Location.

- How are the setback requirements of (b) going to be applied to existing facilities?
- Why are (c) and (d) included in this section? These pertain to landfills, not impoundments.

WAC 173-350-330 Surface impoundments and tanks.

Subsection (4) Surface impoundments and tanks – Permit requirement - Design.

- How are the sizing requirements of (a)(v) going to be applied to existing facilities?

WAC 173-350-330 Surface impoundments and tanks.

Subsection (4) (a)(v) requires leachate generation estimates to use precipitation from a wet year (one year in 10 recurrence interval)

- For calculations that run across multiple years, is the intent that a wet year should be used for the initial year, every year, or other frequency?

WAC 173-350-400 Limited purpose landfills.

Subsection (4) Limited purpose landfills - Permit requirements - Design.

- Revisions to this section appear to be more specific than the content of WAC 173-351 requirements. Should there be better alignment between the requirements of the two chapters?

WAC 173-350-400 Limited purpose landfills.

Subsection (4) Limited purpose landfills - Permit requirements - Design.

Subsection (b) Landfill gas control.

- Should this be written consistent with WAC 173-351?

WAC 173-350-400 Limited purpose landfills.

Subsection (4) Limited purpose landfills - Permit requirements - Design.

Subsection (d) Leachate collection and control system design.

- This section should only apply to landfills with a liner system.

WAC 173-350-400 Limited purpose landfills.

Subsection (4) Limited purpose landfills - Permit requirements - Design.

Subsection (i)(f) Final closure system design.

Subsection (F) specifies a maximum 33 percent (3H:1V) side slope.

- How does this criteria take into account available engineered and operational assessments and technologies?
- Limiting the available capacity of a landfill requires more landfills to be developed. Is that a preferred alternative to steeper slopes?

WAC 173-350-400 Limited purpose landfills.

Subsection (4) Limited purpose landfills - Permit requirements - Design.

Subsection (ii)(A)(III) Final closure system design.

- Why is the HDPE geomembrane required to be 60-mil and other geomembranes are required to be 30-mil?
- What thickness is required for LLDPE?

WAC 173-350-400 Limited purpose landfills.

Subsection (4) Limited purpose landfills - Permit requirements - Design.

Subsection (f)(ii)(C)(II) specifies a maximum 33 percent (3H:1V) side slope.

- How does this criteria take into account available engineered and operational assessments and technologies?
- Limiting the available capacity of a landfill requires more landfills to be developed. Is that a preferred alternative to steeper slopes?

WAC 173-350-400 Limited purpose landfills.

Subsection (6) Limited purpose landfills - Permit requirements - Operating.

Subsection (a)(ii)(D) prohibits asbestos unless it is managed in accordance with 40 CFR Part 61.

- Should this be changed to “regulated asbestos”? Low concentrations of asbestos are exempt from regulation.
- With appropriate handling practices established, can and LPL accept asbestos?

WAC 173-350-400 Limited purpose landfills.

Subsection (6) Limited purpose landfills - Permit requirements - Operating.

Subsection (a)(ii)(D) prohibits polychlorinated biphenyls (PCBs).

- Should this be changed to “regulated PCBs”? Low levels of PCBs are exempt from regulation along with some specific PCB containing material types.

WAC 173-350-400 Limited purpose landfills.

Subsection (6) Limited purpose landfills - Permit requirements - Operating.

Subsection (a)(ii)(F) prohibits furnishings.

- Considering the material types allowed in an LPL, how do furnishings pose an adverse impact to human health or the environment?
- An LPL may receive segregated industrial solid waste, construction and demolition waste, wood waste, ash (other than special incinerator ash), contaminated soil and contaminated dredged material. How is receiving a wood or metal table or chair for disposal pose an adverse impact to human health or the environment?

WAC 173-350-400 Limited purpose landfills.

Subsection (6) Limited purpose landfills - Permit requirements - Operating.

Subsection (a)(ii)(G) prohibits auto shredder residue.

- The disposal of Polychlorinated Biphenyls (PCB) bulk product waste is regulated under 40 CFR 761. As defined by the regulation, PCB bulk product waste means waste derived from manufactured products containing PCBs in a non-liquid state, at any concentration where the concentration at the time of designation for disposal

was ≥ 50 ppm PCBs. This includes but is not limited to PCB-containing wastes from the shredding of automobiles, household appliances, or industrial appliances. Solid waste, such as shredded automobiles, at concentrations less than 50 ppm are excluded PCB products and managed as typical solid waste not subject to the disposal requirements of 40 CFR 761. The Washington State Department of Ecology (Ecology) provides PCB disposal guidance for PCB bulk product waste consistent with 40 CFR 761 in the Disposal Options and Requirements for Polychlorinated Biphenyl Waste (Ecology, 2024). PCB bulk product waste is regulated at 50 ppm and greater. PCB bulk product waste less than 50 ppm is not regulated in the dangerous waste regulations in Washington State and can be taken to a municipal or non-municipal nonhazardous waste landfill for disposal. A limited purpose landfill is a non-municipal nonhazardous waste landfill, and in accordance with Ecology guidance, an appropriate disposal location for unregulated PCB bulk product waste, such as shredded automobiles. What is the basis for this prohibition?

WAC 173-350-400 Limited purpose landfills.

Subsection (6) Limited purpose landfills - Permit requirements - Operating.

Subsection (a)(ii)(I) prohibits appliances.

- If appliances do not contain chlorofluorocarbons (CFCs) how do they pose an adverse impact to human health or the environment?

WAC 173-350-400 Limited purpose landfills.

Subsection (6) Limited purpose landfills - Permit requirements - Operating.

Subsection (a)(ii)(J) prohibits recyclable materials intended for recycling markets.

- How does this prohibition affect the facility's ability to salvage or recover material for recycling? To salvage recyclable materials, they must be accepted into the site.
- This limitation does not appear in WAC 173-351. Is it Ecology's intent that recyclable material intended for recycling markets may be disposed of in an MSW landfill?
- Recycling markets fluctuate and change. Material originally intended for a recycling market may at the time of export not have that market available. Due to facility storage limitations, the material will likely still require export. How should this material be handled? Where should it go?
- How does this requirement align with WAC 173-350-021 Determination of solid waste (f): "The material has been stockpiled for recycling, reuse, or use after recycling, but no market is available."?

WAC 173-350-400 Limited purpose landfills.

Subsection (6) Limited purpose landfills - Permit requirements - Operating.

Subsection (a)(vi)(A) uses terms like “prevent”, “limit”, “adequately”, and “ensure”.

- Is it possible to compact waste so that it “prevents” air intrusion?
- What measurable considerations should an operator make when assessing what is adequate, limiting, or able to ensure?

WAC 173-350-400 Limited purpose landfills.

Subsection (6) Limited purpose landfills - Permit requirements - Operating.

Subsection (a)(vi)(B) requires daily cover.

- Limited purpose landfill waste types largely do not require daily cover to prevent nuisances. If a nuisance develops, there may be other operational or engineered means to address the situation without consuming airspace with clean soil that would only lead to the need for more landfills. What considerations has Ecology included in making this requirement?

WAC 173-350-400 Limited purpose landfills.

Subsection (6) Limited purpose landfills - Permit requirements - Operating.

Subsection (a)(vii) specifies a maximum 33 percent (3H:1V) side slope.

- How does this criteria take into account available engineered and operational assessments and technologies?
- Does this criteria only apply to exterior closure slopes above the surrounding grade, and not bottom liner slopes? There are vertical liner products that facilitate the lining and filling against mined or quarried areas.
- Limiting the available capacity of a landfill requires more landfills to be developed. Is that a preferred alternative to steeper slopes?

WAC 173-350-400 Limited purpose landfills.

Subsection (6) Limited purpose landfills - Permit requirements - Operating.

Subsection (a)(viii)(B)(I) requires soil gas monitoring wells adjacent to waste.

- If waste is not adjacent to a property boundary, how does this requirement align with the performance requirements of Subsection (4)(b)?
- How does this requirement account for landfill expansions beyond the prescribed well locations?

WAC 173-350-400 Limited purpose landfills.

Subsection (6) Limited purpose landfills - Permit requirements - Operating.

Subsection (a)(viii)(B)(II) requires a demonstration to determine low potential for

adverse impacts on the public health and safety and the environment from wider soil gas monitoring wells spacing.

- What is an acceptable demonstration?
- How is the potential measured, and how is an acceptable level of risk defined?

WAC 173-350-400 Limited purpose landfills.

Subsection (6) Limited purpose landfills - Permit requirements - Operating.

Subsection (a)(viii)(B)(V) requires soil gas monitoring well depth to correspond to the lowest elevation of waste.

- How is proximity to depth of waste accounted for at landfills with large waste footprints?

WAC 173-350-500 Groundwater monitoring.

Subsection (2) Groundwater monitoring - Site characterization for landfill sites.

Subsection (b) pertains to a boring program.

- How do these changes apply to existing facilities?

WAC 173-350-500 Groundwater monitoring.

Subsection (3) Groundwater monitoring - System design.

Subsection (c)(ii) pertains monitoring well locations as near to waste as possible.

- How does this requirement account for landfill expansions beyond the prescribed well locations? Decommissioning existing wells and installing new wells for every expansion seems problematic.
- How do these locations align with the point of compliance?

WAC 173-350-725 Permit suspensions, denials, amendments, and appeals.

Subsection (3) requires appeals of department permit denials to be processed through the pollution control hearings board (PCHB).

- Considering the current backlog of PCHB cases that can take between 12 to 18 months to schedule a Hearing, what is the assessed additional impact to PCHB case backlog from this requirement?
- Considering the time sensitive requirements applicable to solid waste handling practices, what other appeal resolution processes have been considered by the department that won't require multiple years to resolve?
- Appeals to the PCHB is a very detailed and involved semi-judicial process. Has the department considered an appeals process for minor appeals that doesn't warrant escalation to the PCHB?

WAC 173-350-725 Permit suspensions, denials, amendments, and appeals.

Subsection (4) requires appeals of department permit suspensions to be processed through the pollution control hearings board (PCHB).

- Considering the current backlog of PCHB cases that can take between 12 to 18 months to schedule a Hearing, what is the assessed additional impact to PCHB case backlog from this requirement?
- Considering the time sensitive requirements applicable to solid waste handling practices, what other appeal resolution processes have been considered by the department that won't require multiple years to resolve?
- Appeals to the PCHB is a very detailed and involved semi-judicial process. Has the department considered an appeals process for minor appeals that doesn't warrant escalation to the PCHB?
- What provisions are in place to allow a facility to continue to operate during an appeal? If a penalty is incurred from a JHD, and the penalty is removed through appeal, will the department respect that decision, or possibly issue a department penalty?
- If a penalty is incurred from the department, and the penalty is removed through appeal, will the JHD respect that decision, or possibly issue a JHD penalty?
- If a facility is negatively impacted by an incorrectly denied or suspended permit, what recuperative or restorative process is available to the facility?

173-350-735 Enforcement actions and appeals.

Subsection (4)(b) requires appeals of department orders or penalties to be addressed through the pollution control hearings board (PCHB).

- Considering the current backlog of PCHB cases that can take between 12 to 18 months to schedule a Hearing, what is the assessed additional impact to PCHB case backlog from this requirement?
- Considering the time sensitive requirements applicable to solid waste handling practices, what other appeal resolution processes have been considered by the department that won't require multiple years to resolve?
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