

Notes on second waste tire stakeholder meeting 7.9.2015

Introductions: We all tell everyone else in the room who we are, what company we represent, and our experience with waste tires. We also state what specific concerns and interests we have in participating in this stakeholder work group

In Person:

Jim Sells, WRRRA
Chris Piercy, Kitsap County Public Works
Rick Dawson, Benton-Franklin County Health District
Nina Baston, Walla Walla County
Mark Hope, Tire disposal and recycling
Isaac Standen, Ecology
Peter Christiansen, Ecology

On Phone:

Robert Vantuyl, Ash Grove Cement Company – phone
Dick Nordness, NW Tire Dealers Association - phone
John Sheerin, Rubber Manufacturers Association – phone
Pat Dunn, Les Schwab Tires – phone
Steve Skinner, Lewis County - phone

Item of primary concern to be discussed during our 7/9/2015 meeting: The work group proposes expanding the definition of waste tires to include tires that are no longer whole or otherwise have been physically modified (baled, cut, or shredded, etc.) that have not yet officially been sold as product. We have had instances where Waste Tires were labeled as product because they were in altered form, but did not go to market. These altered tires just sat in place effectively unregulated, becoming an environmental and public health hazard and eventually turning back into a waste that the state and local jurisdictions eventually have to pay for the proper cleanup and disposal of.

- A. The work group considers inserting an exemption to facilities that have acquired waste tires for use as a product or feedstock (i.e. crumb rubber recyclers and cement kilns). If inserted, this prospective exemption would be in tandem with the expansion of the definition of waste tires (which include altered forms). If inserted, this prospective exemption would allow facilities that have acquired waste tires for use as a product or feedstock to be no longer regulated under WAC 173-350-350. This may prove problematic in light of consideration that some facilities may have a business model that has a high risk of failure (i.e. an “experimental” pyrolysis plant). The responsible party might walk away while leaving a mess of tires. Ecology suggests 3 possibilities on how to approach this:

1. It might be optimal to not to insert this exemption in the first place while expanding the definition of waste tires.
2. Another option would be to make the exemption based upon flow of materials. Let's suppose if a facility moved 200% (arbitrary number) or more of the maximum allowable waste tire material on site each year they would qualify for an exemption. If they had a movement of materials rate below that rate, they would not qualify for said exemption.
3. A third option is likely to exist no matter what decision we choose. Other ecology staff working on the rule rewrite are putting together a checklist of sorts to delineate the difference between Waste Vs. Not Waste. It could be subjective, depending on what perspective you take, or what situation the waste tires happen to be in. If a bail of tires used as feedstock in a pyrolysis plant is not considered waste, it will not be regulated under WAC 173-350-350, and the pertinent financial assurance will not be required. If the pyrolysis plant fails and the owner abandons the feedstock (in the form of waste tires) on site, then it becomes the burden of the public to clean it up.

Review and discussion of proposed changes to WAC 173-350-350

Isaac: We currently do not consider waste tires that have been altered waste. We plan on expanding the definition of waste tires that includes altered forms. There are people who want to recycle or otherwise make profitable use of waste tires. We have a massive accumulation of waste tires in baled form in Richland. This was once considered product, that has turned back into waste. Pyrolysis plants represent a liability – low profit margin, likely to shut down. Shouldn't these people be covered under waste tire storage? Is there a way to work with these entities so we aren't overregulating them? I have three options to review and am open to hearing other options.

Mark: Your caution is well-noted. It has happened before. There's a loophole and it needs to be tighter. Cement industry get a specific exemption from storage issues, as an example. Will require that those tires be encapsulated inside something, rather than leave them sitting outside. Other people have struggled with this. One cement company in WA takes tires and utilizes them for energy. They arrive in enclosed freight vans and then are inventoried. Roughly, 600 to 800 tires to a van. No significant amount of tires end up on the ground or in storage. They don't get into the neighborhood of tens of thousands of tires. Ash Grove uses whole tires that are never processed. Some states call out paper and pulp industry specifically and make them exempt.

Peter: Through-put? For permitting. Something to be considered.

Rick: Other avenues within the rule could be used. Beneficial use exemption. Permit deferral.

Mark: Strictly trying to regulate based on beneficial use is kind of where we've been in WA. But at end of day there was nothing. Will the beneficial use pan out? People given too much of the benefit of the doubt. Make people prove the beneficial use.

Steve: Commenting on option 2 -- Up to health department or Ecology to regulate if they have over eight tons?

Isaac: Commenting on option 2 -- Would have to have solid waste handling permit; it would primarily be local jurisdictions.

Jim: Commenting on option 2 -- Might have to check plant every day.

Rick: Commenting on option 2 -- Not realistic. Public health issue.

Mark: If an existing entity where they can show you what they can do, it's separate from a new facility saying they will do things. Make some delineation. Put the burden of proof on the new facility. Another state says if the inventory isn't turned over in 30-60 days, it must be regulated. But from a county's perspective, you have to check every 30-60 days. Fire departments have standards on how this stuff should be stored. There's only so much space and so much footprint where you can store material. That's dependent on someone from the local regulatory authority checking on it.

Peter: Even piles under existing fire code are fairly large. It's still more than we want to clean up if they go belly up. We can require record keeping of inflow/outflow. Someone can audit that in six months. It does end up being a burden on the health departments.

Rick: The burden's there whether we pick it one way or the other.

Peter: Our folks are going to come together to see where the rule making conflicts with each other. Everything we talk about here will come back to the group deciding on entire rule to ensure we are consistent.

Mark: Commenting on option 3 -- isn't this like situation in Benton County? So subjective that it puts us back to square one. If someone tries to do lobbying effort, they could become outside the regulatory framework.

Peter: This is probably what the main sticking point is in this rule. Waste vs. not waste vs. product. We need to figure out (Ecology) how we get our definitions so they work across the board. It's not going to be easy, but we're going to do it.

Jim: I'm in working group. We're wrestling with singular words. What's recycling, what's garbage, what's product? You're lucky to have the tire regulations because at least you've got a starting point.

Peter: Let's get all of our thoughts down so we have something we can wrestle with.

Mark: In CA, if materials comes onto our process facility, even if it's a finished material and recyclable, as long as it's on my site, I'm regulated. I move 4,000 tons in bulk at a time, around 400,000 tires. My customer has a place where they inventory the material when I deliver it to them. They take control of it and I bill them for it. And now the 4,000 tons is no longer regulated. I have to show invoices and document the fact that this material has undergone some sort of commerce.

Rick: If we go to waste/not waste, that's sticky. Maybe consider product stewardship. That would take a legislative action though.

Not a state in the country that has an EPR for waste tires. Multiple provinces in Canada have it.

Person on phone: First option seems to be most clean in terms of drawing a subjective line. Third option seems most reasonable, maybe there's a little risk in that. But also feasible; certain states have guidance about beneficial use. Simplest way might be to use first option.

Mark: Definition expansion – you can parse it. I think you can get to those nuances in the definition as far as creating exemptions through definition.

Isaac: Concerned about pyrolysis plants since they are likely to shut down. Using them as a bad example. Say a shredded tire goes to that plant and they have over eight tons. WAC applies to way they are storing it, unless in the container.

Mark: Where to draw the line – it's not an easy one because people will make case it's a recycled material at that point and shouldn't be regulated. It has to undergo a conversion process. By it simply sitting there as chips, it has to be converted to another product and that product has to be sold. And it's not just pyrolysis plants with this problem. Something has to sell before it moves off site. It should be regulated. The question is how you get into a plain objective way to determine whether commerce has taken place there. I sat before Environmental Quality Commission in OR trying to convince them that pyrolysis plant isn't necessarily the end use. It's very tough for the citizens to understand that. Probably better to tighten the wording than let people subjectively decide.

Peter: This is a problem with roofing material too. Yeah, they can be recycled, but it's not really happening. It's a concept vs. reality.

Jim: We would be comfortable with not inserting the exemption at all in the definitions.

Isaac: I think I will move forward with Option 1. That seems to be the consensus.

Peter: All of this rule stuff has to go through a small business economics statement. We have one economist with Ecology and have to schedule with him.

Isaac: This might be the last meeting we have about the rule rewrite. Stay tuned. I might call on you again.

Peter: This is a very self-contained portion of the rule. There might be some overlaps with piles. How we define it can have an impact on this. Tires are pretty clearly defined. We know they can end up in bales of a couple million.