

173-350 Solid Waste Definitions Update Work Group

January 6, 2014

1:00-2:30

(360) 407-3780

PIN Code: 419835 #

Agenda

Attendees:

X	Andrew Kenefick	Waste Management
	Art Starry	Jurisdictional Health Authorities
X	Brad Lovaas	Washington Refuse and Recycling Association
X	Bruce Chattin	Washington Aggregates & Concrete Association
X	Ken Stone	Washington State Department of Transportation
	Scott Windsor	Local Government - City of Spokane
X	Sego Jackson	Local Government - Snohomish County
X	Suellen Mele	Zero Waste Washington
X	Ted Silvestri	Jurisdictional Health Authorities
X	Troy Lautenbach	Washington State Recycling Association
Ecology:		
X	Gary Bleeker	Washington Department of Ecology
X	Wayne Krafft	Washington Department of Ecology
X	Alli Kingfisher	Washington Department of Ecology
Guests:		
X	Jim Sells	Washington Refuse and Recycling Association
	Penny Ingram	Washington Utilities and Transportation Commission
	Pam Smith	Washington Utilities and Transportation Commission
	Betty Young	Washington Utilities and Transportation Commission
X	Susan Thoman	Cedar Grove
	Jerry Bartlett	Cedar Grove
X	Bart Kale	Bart Kale & Associates/Nucor Steel

Project Objective: The definitions of Solid Waste, Recyclable Materials, and Recycling are the basis for all solid waste handling activities. These terms are defined in statute, but subject to some interpretation. The work group will focus on these terms and determine if they can be clarified or improved within the limits of existing statutes.

Time	Topic	Additional Details
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5 min	Welcome, Check in, Roll call	Discuss changes to group membership: Ann has moved on to another position.
5 min	Review Group Process to Date	Conform changes to meeting notes for 12-16 meeting
50 min	Factors to consider for recycling and solid waste	Review draft language
25	Other definitions needed	
5 min	Wrap-up & Check-out	

Andrew distributed the [EPA's final language on the Definition of Solid Waste](#). (Note: added to Federal Register on January 13, 2015.)

§ 260.43 Legitimate recycling of hazardous secondary materials.

(a) Recycling of hazardous secondary materials for the purpose of the exclusions or exemptions from the hazardous waste regulations must be legitimate. **Hazardous secondary material that is not legitimately recycled is discarded material and is a solid waste.** In determining if their recycling is legitimate, persons must address all the requirements of this paragraph.

(1) Legitimate recycling must involve a hazardous secondary material that **provides a useful contribution to the recycling process or to a product or intermediate of the recycling process.** The hazardous secondary material provides a useful contribution if it:

- (i) **Contributes valuable ingredients to a product or intermediate;** or
- (ii) Replaces a catalyst or carrier in the recycling process; or
- (iii) Is the source of a valuable constituent recovered in the recycling process; or
- (iv) Is recovered or regenerated by the recycling process; or
- (v) **Is used as an effective substitute for a commercial product.**

(2) **The recycling process must produce a valuable product or intermediate.** The product or intermediate is valuable if it is:

- (i) **Sold to a third party;** or
- (ii) **Used by the recycler or the generator as an effective substitute for a commercial product or as an ingredient or intermediate in an industrial process.**

(3) **The generator and the recycler must manage the hazardous secondary material as a valuable commodity when it is under their control.** Where there is an analogous raw material, the hazardous secondary material must be managed, at a minimum, in a manner consistent with the management of the raw material or in an equally protective manner. Where there is no analogous raw material, the hazardous secondary material must be contained. Hazardous secondary materials that are released to the environment and are not recovered immediately are discarded.

(4) **The product of the recycling process must be comparable to a legitimate product or intermediate:**

- (i) Where there is an analogous product or intermediate, the product of the recycling process is comparable to a legitimate product or intermediate if:

(A) The product of the recycling process does not exhibit a hazardous characteristic (as defined in part 261 subpart C) that analogous products do not exhibit,

and

(B) The concentrations of any hazardous constituents found in appendix VIII of part 261 of this chapter that are in the product or intermediate are at levels that are comparable to or lower than those found in analogous products or at levels that meet widely-recognized commodity standards and specifications, in the case where the commodity standards and specifications include levels that specifically address those hazardous constituents.

(ii) Where there is no analogous product, the product of the recycling process is comparable to a legitimate product or intermediate if:

(A) The product of the recycling process is a commodity that meets widely recognized commodity standards and specifications (e.g., commodity specification grades for common metals), or

(B) The hazardous secondary materials being recycled are returned to the original process or processes from which they were generated to be reused (e.g., closed loop recycling).

(iii) If the product of the recycling process has levels of hazardous constituents that are not comparable to or unable to be compared to a legitimate product or intermediate per subparagraphs (i) or (ii) of this paragraph, the recycling still may be shown to be legitimate, if it meets the requirements specified below. The person performing the recycling must conduct the necessary assessment and prepare documentation showing why the recycling is, in fact, still legitimate. The recycling can be shown to be legitimate based on lack of exposure from toxics in the product, lack of the bioavailability of the toxics in the product, or other relevant considerations which show that the recycled product does not contain levels of hazardous constituents that pose a significant human health or environmental risk. The documentation must include a certification statement that the recycling is legitimate and must be maintained on-site for three years after the recycling operation has ceased. The person performing the recycling must notify the Regional Administrator of this activity using EPA Form 8700-12.

(b) Reserved.

(c) Reserved.

Art submitted new language to be added to the rule.

(1) The material is stored and managed so they will not be released to the environment or pose a risk to public health, employees or the public.

Andrew: language from under 2A is somewhat duplicative – can we combine them. The EPA

Comments:

- Toxics section should be required. We don't want to imply that toxics are ok.

- How it is stored should be important
- The factors should be met as they apply *to the material in question*
- Maybe we need to combine it back into one list.
- Puts burden on “generator” that they have met the factors
- We did split it out with the battery/steel issue in mind
- If something falls out – a product can still be toxic but it is no longer a solid waste
- Combine 2(a) and 1(d)
- Like the 4 criteria separate “The valuable material is stored” to elevate the importance of the material. So it is not just a generic material. It has to pass the test of value.