Joint Meeting of the WAC 1743-350 Sections 400 and 410 Workgroups
March 16, 2015 – 1:00pm
Ecology Lacey Building – Wind River Room (R1F-08)

Participants

- John Bromley, Washington Department of Natural Resources – in person
- Bill Harris, Ecology Waste 2 Resources Program – in person
- Dave Lewis, Miles Sand & Gravel – on phone
- Chris Martin, Ecology Water Quality Program – in person
- Jana McDonald, Oldcastle / Central Pre-Mix – in person
- Kathy Pierson, Snohomish Health District – in person
- Jody Snyder, Waste Connections – on phone
- Rod Whittaker, Washington Refuse & Recycling Association – on phone

Note: Ted Silvestri, Yakima Health District, and Dave Lowe, Waste Management, had other commitments that took precedence at the time chosen for the meeting.

Meeting Summary

Bill expressed thanks to everyone for their willingness to participate in the update of Section 400, Limited Purpose Landfills, and Section 410, Inert Waste Landfills, of Washington's *Solid Waste Handling Standards* rule, Chapter 173-350 WAC.

Ecology-Identified Issues

After introductions around the table and on the phone, Bill summarized the larger issues which Ecology staff has identified in these sections:

Section 400

- The descriptions of the options to propose alternative designs for liners and final closure covers - don't reflect the intent of these options or current practice.
- The requirements for environmental monitoring and reporting are unclear or inconsistent, particularly with regard to parameters other than groundwater.
- Post-closure endpoint criteria are poorly defined and inconsistent with contemporary approaches to determining if a landfill's post-closure care can be ended while protecting human health and the environment.
- Financial assurance requirements for post-closure maintenance and monitoring are based on an assumption of a fixed period for post-closure care, rather than being linked to an estimate of time to reach protective and sustainable post-closure endpoint criteria.

Section 410

- Inert waste materials are used for fill material in construction projects, including large transportation projects. Section 410 provides a categorical exemption from permitting for the placement or disposal of inert wastes in a facility with a total capacity of 250 cubic yards or less. Technically, any construction project that uses more than 250 cubic yards of inert wastes as fill also requires permitting as an inert waste landfill. In practice, project owner/operators or constructors often ignore the requirement to obtain a solid waste permit for this type of filling. The work group will explore developing a more practical framework for exemptions from permitting requirements

for these types of inert wastes. Of particular interest is setting a higher threshold volume for categorical exemption from permitting for the placement or disposal of inert wastes.

- Further, inert wastes are often used for reclamation of surface mines permitted by the Washington Department of Natural Resources. DNR has no volume limits on inert waste used in fill for reclamation. This presents mine operators with an unclear regulatory landscape and may lead to potential compliance issues.

- Also, a clarification is needed to address a conflict between section 410 and the 2006 revision to WAC 173-160, Minimum Standards for Construction of Wells, which modified that rule's setback requirements when siting water wells near landfills permitted under WAC 173-350.

Workgroup-Identified Issues

Bill asked the group if there any preliminary issues which members have found through their roles.

Kathy noted that Snohomish Health has five facilities permitted as inert waste landfills, but that the waste acceptance criteria in those permits allows the disposal of wastes that go beyond the inert waste criteria established in WAC 173-350-990. Notably, these facilities are also permitted to receive soils that may have been impacted by contaminant chemicals, but not at levels that would exceed locally-established screening levels similar to Method A cleanup levels under the Model Toxics Control Act. Snohomish Health would like to see a path to repermitting these facilities as limited purpose landfills, without requiring them to meet design and construction criteria that might be over-engineered for the risks that practical experience suggests these types of wastes present.

Kathy also mentioned the prohibition on scavenging in the operating standards for LPLFs as an impediment to resource recovery and recycling. She suggested that operators should have an option to remove materials from incoming waste loads that they might be able to reuse or remarket.[1]

Jana raised several issues:

- The requirement for a proponent of an inert waste landfill to provide notice to property owners within 1000 feet of the proposed landfill is a problem.
- Mine reclamation using inert wastes under other permits providing environmental protections should be exempted from solid waste permitting.
- The upper-threshold disposal volume of 250 cubic yards for exemption from solid waste permit is unrealistic and overly restrictive.

Jody indicated that she wants to be sure that Jana's latter two points are addressed as separate issues, and not conflated into one.

[1] WAC 173-350 includes prohibitions on scavenging in several locations within both Section 310 – Intermediate Solid Waste Handling Facilities, and Section 400 - Limited Purpose Landfills. WAC 173-350-100 defines scavenging as "the removal of materials at a disposal facility, or intermediate solid waste-handling facility, without the approval of the owner or operator and the jurisdictional health department".

Jody also asked if Ecology was considering modifying the range of waste types that could be accepted under the LPLF section.

Additional Workgroup Discussion of Identified Issues

- *Inert waste landfills: The not-strictly-inert scenario* - Kathy noted that distinctions in engineering design criteria between municipal solid waste landfills under WAC 173-351 and limited purpose landfills under WAC 173-350-400 are fairly narrow. Inert waste landfills are much less stringent in design. The dilemma Snohomish Health and other jurisdictional health departments are confronted with is that permits issued to IWLFs which are also allowed to accept soils containing low levels of contaminants might be technically out of compliance with the regulations. If IWLFs are going to be limited to accepting strictly inert waste, then those JHDs will have to change many of those facilities from permitting as IWLFs to something else. Right now, the other choices available to the JHDs would be permitting as limited purpose landfills under Section 400, or as "Other methods of solid waste handling" under Section 490. The latter is how Skagit County handles some of its paper pulp wastes. A major gap exists between the specific standards for LPLFs and the general requirements in "Other methods". Neither choice is particularly appealing; permitting as LPLFs may require major facility upgrades to meet the LPLF standards, while the facility-specific effort necessary to develop appropriate conditions for a 490 permit seems disproportionate to the risks these wastes typically present.

- *Inert waste landfills: Proposed Soils and Earthen Materials section* – Kathy pointed out a related issue that could arise from the section being proposed for addition to WAC 173-350 on soils and earthen materials. That section's workgroup has been discussing the creation of a new category of waste which would effectively fit between the existing categories of inert waste and contaminated soils. The former is eligible for disposal in IWLFs, while the latter must be disposed in LPLFs or MSWLFs. If a new intermediate category of waste soils is established as a result of the rule update, it's not clear where that waste will fit into the existing continuum of landfill types.

- *Inert waste landfills: Regulatory overlap with gravel mine reclamation* – Jana, Bill, and John share a perception that there are no significant additional protections which result from requiring a solid waste permit for the landfilling of inert wastes in a reclamation project which is already being conducted under a DNR reclamation permit and/or a Water Quality Program sand and gravel permit. Jana pointed out that her company's gravel operations may be operating under multiple permits which are intended to address similar protection issues. The group preliminarily supports exempting reclamation activities from inert waste landfill permitting when those activities are being conducted under other permits which address similar protections. The group discussed a few subtopics in relation to mine reclamation, solid waste permit exemptions, and use of earthen materials:

    - *Use of Inert and Soil Materials in Mine Reclamation* – The group touched on the potential interactions of the work being done in the Soils and Earthen Materials workgroup with the Inert Waste Criteria and the use of inert materials and earthen materials in mine reclamation. John mentioned that Oregon has integrated standards for clean fill into its reclamation rules.[2]

[2] Oregon's regulation implementing its *Mined Land Reclamation Act* states "All fill used as reclamation backfill or other subsurface placement must meet the Oregon Department of Environmental Quality definition of clean fill as

- *Eastern Washington v. Western Washington conditions* - Bill asked the group if they felt there might reason to consider differences in materials management approaches based on the different climates east and west of the Cascades. Jana indicated that sand and gravel operators might have concerns about this difference.

- *Inert waste landfills: Upper volume threshold for permit-exempt disposal* – Jana and John agreed that the existing 250 cubic yard upper limit is too restrictive. Subsequent discussion identified that other factors that might be considered are construction project proposals that undergo a comprehensive SEPA review, such as road projects.

- *Inert waste landfills: Notice to nearby property-owners* – Jana suggested that, as reflected by the lack of a requirement for groundwater monitoring at inert waste landfills, an underlying principle of inert waste landfills is that they are not expected to result in groundwater contamination. This seems to be an inconsistency in the requirements for inert waste landfills. Kathy and Bill noted that the notice requirement is intended to align with the well construction rules, WAC 173-160[3], which prohibit siting a water well within 1000 feet of property used for a landfill. However, the notice requirement in this case highlights the well siting restriction and fosters local opposition to siting new inert waste landfills.

- *Limited purpose landfills: Waste types allowed to be disposed* – Jody indicated that she would want to be careful about what types of wastes go to LPLFs, since they currently can receive wastes that could be just as problematic as MSW in terms of leachate quality, gas generation and potential environmental impacts. Contaminated soils could be one example of that potential issue.

Next Steps

The group discussed the overall rule-update process and the need to coordinate the work on these sections with the other Ecology rule-section leads, particularly Marni Solheim, the lead for Soils and Earthen Materials, and Dawn Marie Maurer, the lead for Inert Waste Criteria. Bill indicated that he

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provided in OAR 340-093-0030 or the use must be specifically allowed by Department of Environmental Quality by rule, permit or other written authorization." [OAR 632-030-0025(1)(bb)(A)]. In the ODEQ regulation cited, '"Clean Fill" means material consisting of soil, rock, concrete, brick, building block, tile or asphalt paving, which do not contain contaminants which could adversely impact the waters of the State or public health. This term does not include putrescible wastes, construction and demolition wastes and industrial solid wastes.' [*Solid Waste: General Provisions,* OAR 340-093-0030(18)].

[3] From WAC 173-160-171(3): "All wells shall not be located within certain minimum distances of known or potential sources of contamination.
…
(b) Minimum set-back distances for water wells other than for public water supply are:
…
(vi) One thousand feet from the boundary of a permitted or previously permitted (under chapter 173-304, 173-306, 173-351, or 173-350 WAC) solid waste landfill as defined by the permit; or one thousand feet from the property boundary of other solid waste landfills. Except, a variance may be granted if documentation is provided that demonstrates the construction and operation of the well adjacent to the landfill will not further degrade the environment and will not cause a public health risk."

would confer with Marni and W2R management on whether to develop new criteria for facilities handling any new category of waste which might be established by the Soils and Earthen Materials section. There is a progress-review meeting of the rule section leads scheduled in the third week of April; he is hoping to have a more fully-informed picture of where the pieces of the rule affecting these sections after that. He also asked that if workgroup members had additional issues that came to mind in the coming weeks, they please contact him with them.