

October 29, 2014

WAC 173-350-325, Soil and Sediment Criteria and Use - Workgroup Face-to-Face

Name	Org	E-mail	Phone	In Attendance
Marni Solheim	Ecology – W2R	marni.solheim@ecy.wa.gov	(509)329-3564	Y
Matt Hinck	Cal Portland	mhinck@calportland.com	(206)764-3021 (206)914-9764 cell	Y
Janusz Bajsarowicz	Pacific Topsoils (PTI)	januszb@pacifictopsoils.com	(425)231-4526	Y
Jared Keefer	Jefferson County Health	jkeefe@co.jefferson.wa.us	(360)385 - 9411	Y
Andy Comstock	Tacoma Pierce County Health	acomstock@tpchd.org	(253)798-6538	Y
Jake Finlinson	King County Roads Maintenance	jake.finlinson@kingcounty.gov	(206)477-3524	Y
Chris Martin	Ecology - WQ	christopher.martin@ecy.wa.gov	(425)649 7110	Y
John Bromley	WA Dept Natural Resources	john.bromley@dnr.wa.gov	(360)902-1452	Y
Jenifer Hill	WA Dept Transportation	hilljen@wsdot.wa.gov	(360)570-6656	Y
Michael Shaw	PCL Civil Constructors Inc.	mcshaw@pcl.com	(425)394-4211 (360)265-0405 cell	Y
Alex Smith	Port of Olympia	alexs@portolympia.com	(360)528-8020	Y
Lynn Schmidt	City of Spokane Wastewater Management Dept	lschmidt@spokanecity.org	(509)625-7908	Y
Non-Workgroup:				
Dawn Marie Maurer	Ecology – W2R	Dawn.maurer@ecy.wa.gov	(425)649-7192	N
Al Salvi	Ecology – W2R	Al.salvi@ecy.wa.gov	(360)407-6287	Y

Agenda

Bulleted items that are not italicized are comments from the meeting. *Italicized wording represent the issues discussed.*

- New addition to group
- Reminder - workgroup expectations
- Process for coordination with other rule sections
- Workgroup product
- Rule language:
 - Changes since last meeting
 - Mean vs. representative sampling
 - Brief glimpse at methodology behind contaminant limits
 - Specific parameters:

TPH	pH
Chromium III v VI	Salinity (sodium chloride?)
cPAH	Nitrogen
Asbestos (friable)	Pathogens
Dioxin	

New addition to group

Welcome Lynn Schmidt, City of Spokane Stormwater Management for street waste issues.

Reminder - workgroup member expectations

Participate in every meeting as much as possible, no substitutes, and reach out to respective industry contacts for wider input.

Process for coordination with other rule sections

- *Particularly for definitions, storage (pile), and inert waste landfill sections, internal Ecology leads for each rule section discuss rule changes regularly, including impacts to each others sections. Some of you have been picked for multiple workgroups, in part to help with this coordination.*
 - *Where definitions are specific to 173-350-235, this workgroup will define them. Existing definitions can be altered, but we can't alter (by much) statutory definitions, and must look out for unintended impacts to other parts of the rule where we do change existing definitions.*
 - *Definitions workgroup is tackling what should and should not be regulated as a solid waste handling activity (e.g. are materials that have been "recycled" still solid waste?). This may impact soils (e.g. manufactured topsoil perhaps).*
 - *Everyone involved here is on the list serv for commenting on the entire rule when it is ready for informal and formal public review.*
-

Workgroup product

- *This workgroup will not produce final rule language. Expect it to change after other rule sections are drafted requiring fixes to our section, internal Ecology review by many staff and other programs, and external informal and formal review.*
 - *What we finalize will not be perfect. We cannot create language to cover all situations so goal is to build in flexibility. Putting something in place to ensure consistency amongst jurisdictions, and clarity on what to do with soils/sediment will be better than what we have now.*
-

Rule language

- *Changes since last meeting. Redline version of rule attached. Comments on draft rule:*
- Definition of cementitious material:
 - Concrete washout and dewatered drilling slurries are never mixed with soil so why list them?
 - Remove example list altogether like we've done with several other definitions.
 - Why is Ecology targeting cementitious materials for regulation? The idea to call out cementitious materials (same as street waste, topsoil, etc.) is to be able to provide a limited list of required test parameters in Appendix I. The goal is to provide clarity on required tests for the impacted soils that have needed the most attention in the past. Appendix I is the only reason we have definitions for most of the targeted soil types.
- Definition of limited access properties:
 - Marni sees need to add separation from groundwater to definition. No disagreement.
 - Remove example list as it may be too limiting or too broad for all circumstances.
- WAC 173-350-235(1) Applicability:
 - Need to clarify that the section would not apply to impacted soils planned for disposal at a limited purpose or MSW landfill.
- WAC 173-350-235(4) Operating standards:
 - Need to clarify who is responsible for ensuring compliance with the section – testing, analyzing, deciding appropriate use, holding the records, etc. We discussed the generator/owner, contractor, receiving site, need to differentiate between project site vs. ongoing collection site (topsoil, street waste), perhaps defining owner/operator since section starts by saying “owner or operator shall...”.
- Table 235-A:
 - The amount of sampling is too low.
 - Change description, perhaps require a certain # samples per # cubic yard (e.g. 3 samples for each 500 cy). This might better suit large sites that have need to remove smaller amounts of soil regularly over long amount of time.
 - For very large projects (e.g. over 5,000 cy) consider lesser # samples as amounts increase.
 - Clarify that first 100 cy needs # samples, next 500 cy needs # samples, etc.
- WAC 173-350-235(4)(e)(iv) and (v) Use:

- Marni noted that both of these excluded uses needed to be moved to the Applicability section.
 - For (iv), add conditions – place above water table, control runoff.
 - For (iv) – excluding from the section the use of impacted soil/sediment back at site of generation - there was much discussion. This exclusion would apply to soils amended with cementitious materials (causing high pH) used back on the project site, as well as other impacted soils picked up and put right back. Engineered soil workgroup members were happy with this, but it was clear from emails after the meeting that not everyone understood this exclusion was not just for “residual” amounts of impacted soil, but all of it. Discussed whether we needed to define “project site.” We will discuss this issue further at the next meeting.
- WAC 173-350-235(4)(g) Records:
 - Need to add that records must be made available to any regulatory agency with jurisdiction, not just health depts. and Ecology.
 - In subsection (v), need to change recordkeeping requirements for ongoing collection sites bringing in and distributing materials from/to many locations (street waste, topsoil). Remove recording generating site and receiving site.
- Other comments:
 - Add language that allows operators the ability to make the call that a soil is “clean” and, therefore, not subject to the rule. Add due diligence, screening criteria, visual inspection, or other criteria an operator can use to make this judgement.
 - Need to try and provide clarity/remove subjectivity on “known or suspected”.
 - The existing definition for “de minimus” was added in order to make decisions about whether an impacted soil is a “soil” and subject to the soils section, or whether it needs to be handled as another type of solid waste. The focus of the current definition is on the amount of physical pieces of non-soil that could be present, considered “de minimus” and still be a soil overall. Several people at the meeting felt we need some “de minimus” standard for chemicals/things one can’t see visually to account for small amounts of equipment leakage from generating sites, and the like. Some felt that representative sampling would eliminate any problem from such occurrences.
 - Some feel that adherence to representative sampling language in the rule is unlikely. There are many ways to achieve this and guidance documents are referenced. There needs to be language like this in order to provide consistency and clarity on expectations for those needing to manage and appropriately characterize impacted soils.
 - Need to add “test and hold” language to ensure impacted soils aren’t taken somewhere before quality of the soil is known.
 - Some feel we should require a sampling plan if someone needs to manage soil in accordance with this section. Others felt this would be overkill and unlikely to be done considering the entire section is meant to be self-policed and regulatory agencies would not have a part in review of any such plan.
 - When contaminant limits are created, do not list numbers in scientific format if possible.
- *Mean vs. representative sampling: If sampling is done to be truly representative, should not be a lot of variation in results. If get lots of variation, need to rethink sampling strategy. Mean would not be the way to go.*
 - *Methodology behind contaminant limits*
Marni showed Excel spreadsheet on computer that she is using to create contaminant limits. It is a work in progress and in very draft form.

The spreadsheet consists of a variety of existing standards and guidelines. Some limits target unrestricted use, some better suited for industrial/commercial use (limited use properties). For unrestricted, picked lowest of all values(mostly), then adjusted up for natural background. For limited use, mostly used Method A industrial.

The spreadsheet is incomplete. Still need to add EPA Soil Screening Limits (SSLs), MTCA 747-1 protection of groundwater, perhaps others.

Detailed thought needs to go into the contaminants of greatest concern to the workgroup, roughly 30 of the 700+ chemicals the spreadsheet now includes.

— *Specific parameters:*

- We did not get to this and will add it to our next meeting.

Close

- Next meeting scheduled in Lacey Friday, November 21, 9-noon