

**WAC 173-350 Revision
MRW Workgroup Face-to-Face Meeting
Ellensburg Armory
September 23, 2014**

Meeting Participants

Name	Org	E-mail	Phone	In Attendance
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Rob Rieck	Ecology - HWTR	Roro461@ecy.wa.gov	360-407-6751	Y
Cheryl Christian	WA Dept of Labor & Industries	Chrh235@lni.wa.gov	360-902-5732	Y, but by phone
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Patti Johnson	Kittitas County Solid Waste	Patti.johnson@co.kittitas.wa.us	509-962-7070	Y
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Non-Workgroup:				
Sean Hixenbaugh	Stericycle/PSC	Sean.hixenbaugh@pscnow.com	303-475-5255 cell	Y
Lena Wang	WA Dept of Labor & Industries	Lena.wang@lni.wa.gov	360-902-5516	Y

Agenda

- 10:00-10:15 Introductions
- 10:15-12:00 Identify and discuss issues with the rule
- 12:00-1:00 Break for Lunch
- 1:00-3:00 Continue to Identify and discuss issues with the rule
- 3:00 End Meeting

Note: We were unable to get through all issues

Notes

Background and Scope of Work

- *3-yr process began Nov, 2013. Will need draft language for public comment approximately 1.5 years from now - May 2016.*
- *Ecology decides on language, but hope for a consensus-based process where we all feel heard and can understand the justification for whatever final rule language looks like.*
- *Today is get to know each other, get comfortable, and for Ecology to come away with general idea for how to get started on rule language. Want a work product that we can add to/revise as we go through process.*
- *In general, I would like to see our workgroup clarify current design and operational requirements. Additionally, I intend to see if it is possible to provide more consistency between the design requirements for MRW (WAC 173-350-360) and TSD facilities (Chapter 173-303 WAC), and worker safety requirements in WAC 173-350-360 and requirements of the Washington State Department of Labor and Industries where feasible. Also, our workgroup will look at the definition of a limited MRW facility to determine if this definition should be changed to provide more collection opportunities for MRW materials.*
- *Currently, there is a product take back section included in the MRW section of the rule. This group will not address product take back in this section because as of right now the thinking is to move product take back out of the MRW section of the rule and create a new section for it. There is another Ecology Employee (Megan Warfield) tasked looking into this. In the event a new product take back section is not created, this group may have to look at that in the future.*

Items Discussed

- **Consider eliminating the option of CESQG disposal into landfills in order to keep as many toxics out of landfills as possible.** This type of change would be outside the scope of the 350 rule revision. To allow for this type of change Chapter 173-303 WAC would need to be changed. No further discussion needed.
- **Limited MRW Facilities are exempt from permitting. A limited MRW facility is a facility that collects, stores, and consolidates limited MRW, which encompasses waste batteries, waste oil, and waste antifreeze from households. We discussed whether or not to expand collection opportunities by expanding the lists of materials defined as limited MRW.** The group did not feel the need to expand the list of waste materials acceptable under the limited MRW definition or change the definition to include wastes of the counties choosing, but limiting the amount of wastes to say 3-5 different types. The reason was that more waste collected at these types of unpermitted and unmanned sites could increase liability for local programs and more waste collected would mean higher costs for local governments to manage the wastes with many local governments without the budget to do so. **See definition of limited MRW facility**
- **The rule currently does not require limited (permit exempt) or fixed (permitted) facilities to be staffed when open to the public.** Most in the group did not like the idea of requiring staff at limited or fixed facilities in rule. This was termed as an unfunded mandate and would have a negative fiscal impact on some local government programs. Note: Especially for fixed facilities, Ecology is worried about incompatible materials coming into contact with one another in these situations and feel strongly about facilities being staffed.
- **The rule currently requires fixed facilities to maintain daily operating records of the weights or gallons of MRW collected and the number of households or CESQG's served.** The group discussed how difficult it was to track daily weights of everything customers might bring in during a day, though keeping customer counts was manageable. Therefore the group would like to either remove the daily records requirement or change to reflect annual records. **See 360(6)(c)**
Also, need to look at reporting requirements for limited sites.

- **The bonding requirement is often overlooked by facilities and the risk associated with no bonding seems limited so consider removing the bonding requirement. Additionally, AI brought up a case where a facility had grounding and bonding, but L&I asked for engineering documentation to show the grounding was installed correctly.** The group felt it best to attempt and sync L&I and International Fire Code (IFC) requirements.
- **Currently, fixed MRW facilities are required to “Provide a sign at the site entrance that identifies the facility and shows at least the name of the site, and if applicable, hours during which the site is open for public use, and acceptable materials”** This wording has created confusion about what needs to be on a sign. In general, the group indicated that facilities will provide signage for facilities regardless of rule requirements, but did not feel the rule should specify what is to be included on a sign. The recommendation was to remove this requirements from rule. Note: Ecology feels this requirement is important to keep, but does understand each facility may have different ideas of what they would want to include on a sign. **See 360(5)(a)(vi).**
- **Currently, if MRW shipments are to go out of state uniform hazardous waste manifests must be used. Many out of state locations that accept MRW will not accept MRW on a manifest. Also, this requirements seems to be in conflict with 49 CFR part 172.205.** The group agreed to change this section to something that reflects out of state shipments to be on shipping papers or meet the receiving state or facilities shipping paper requirements. **See 360(6)(a)(viii).**
- **Do we need to address pharmaceutical waste collection at law enforcement locations in the MRW section of the rule?** This group did not think the MRW section of the rule should address this.
- **Clarify and standardize record keeping requirements, annual reporting requirements, and incident notification requirements in 350-360 with attention given for all in sections 360 (2)(3), and (6).** I offered and the group agreed to let me (AI) offer new language along these lines to the group for their thoughts for the record keeping and annual reporting requirements. For the incident reporting piece, the group thought inserting “ within 24 hours of knowledge of the incident” is more appropriate than “within 24 hours of the incident.” **See, in part 360(6)(xiv).**
- **Clarify when notification is required for mobile/collection events.** In most jurisdictions that conduct mobile/collection events the events happen around the same time and same location every year. Notifying under these circumstances does not appear to serve a purpose. One person pointed out that others may wish to be notified, like cities, when an event is planned in a city but conducted by the county. There may be reviews that need to take place by the city before the event can take place. Another suggestion was to add the time duration of the event and the operating hours of the event to the notification form. **See 360(2)(a).**
- **Look at the design requirements for TSD’s and MRW facilities and try to match up if feasible.** The discussion on this topic centered around what would be considered secondary containment when it comes to loose pack or lab pack drums. Under the DW regulations (303) a lab packed drum is considered secondary containment, but a loose pack drum is not. For the MRW rule we have considered both drums secondary containment. However, we have not stated this in the rule. We all agree the drum is secondary containment for lab packs. Some of the discussion revolved around the idea of differentiating between what is being stored in the drum, solids or liquids and if those materials are compatible with the drum.
- **Review when tanks need to be tested for tightness.** The group felt this was pretty clear in the rule – a tank needs to be tested before it is covered, enclosed, or placed into use and every two years for below ground tanks if the tanks are not equipped with a leak detection system. There may be some API standards for thickness testing that could be applied here – need to look into this or leave as is. **See 360(5)(b).**
- **Clarify when ventilation would be required at an MRW facility.** The rule does not specifically state when ventilation is required, but Ecology did put together an FAQ on this topic that speaks to the bulking of materials as the trigger to require ventilation. Jon, mentioned that the fire code would not require ventilation at a facility that was open on all sides even if they were bulking materials. The group thought it best to let state building and mechanical codes and worker protection rules determine when ventilation would be required. **See 360(5)(a)(vii).**

- **Clarify when gas monitoring is required at an MRW facility.** The rule does not specifically state when gas monitoring is required, but Ecology did put together an FAQ on this topic that speaks to the bulking of flammable gasses or liquids as the trigger to require gas monitoring. Should we just say in rule that gas monitoring is required when flammable gasses or liquids are being bulked? The group thinks this is another area to tie back into building, electrical, and/or fire codes to establish when gas monitoring might be required. **See 360(6)(a)(xi).**
- **Require Health Department approval of any changes to a facilities operating plan before the change can be implemented.** Many county permits include language like this, the question is should the rule spell it out? This would be an addition to **360(6)(e).**
- **Clarify what is meant in 360(5)(a)(x) Provide protection of the MRW handling areas from wind, rain, or snow.** The wording here has been interpreted to mean all areas where MRW is stored or moved needs to be covered. The thinking is that the group wants to make sure the MRW itself is protected. The group felt this item could be taken out as it is covered in the secondary containment section. Could also change the wording to read something like: Provide protection of the MRW from wind, rain, and snow.
- **Clarify what is meant by “Containers or tanks are closed except when adding or removing MRW...”** Discussed distinguishing between used oil and other types of tanks in this. Also discussed adding the word “actively” between the words when and adding. **See 360(6)(a)(iv).**

Items for Future Discussion

- **Clarify weather and temperature extremes in 360(6)(e)(ii)(D).** Shouldn't this be taken care of in the design standards or through building codes? Should this requirement stay in rule?
- **Clarify what is meant by “segregated” in 360(5)(a)(iii)(B).** One idea is to provide clarification based on being segregated by “hazard class.”
- **Clarify intent of the applicability section for 360(1)(a)(ii) .** This section is incorrect in using the term “bill of lading” instead of shipping paper and for excluding 10-day transfer facility from exemption if manifests are used. This section should be simplified to account for the real intent of excluding 10-day transfer facilities. Could change **360(1)(a)(ii)** to read as: ***ii) Persons transporting MRW using a shipping paper ~~only a bill of lading (MRW that is not shipped using a uniform hazardous waste manifest)~~ who store MRW for more than ten days at a single location;***
- **Correct an incorrect reference in 360 (1)(b)(i).** This section references WAC 173-303-240, which is for transporters of regulated DW. Households and CESQG's are not subject to that section of 303. Could change **360(1)(b)(ii)** to read as: ***(i) Persons transporting MRW managed in accordance with the requirements for shipments of manifested dangerous waste under WAC [173-303-240](#); 49 CFR Parts 171-180.***
- **Clarify in the applicability sections of 210 (Recycling) and 310 (Intermediate Solid Waste Handling) that those sections do not apply to the recycling of MRW.** These sections currently reference storage of MRW is not applicable. I will need to work with the Ecology leads for those sections to get this included.
- **Limited MRW sites are not staffed.** Consider removing the annual reporting requirement of tracking the number of households and CESQG's served. At a minimum remove the requirement to track CESQG's served since, technically, CESQG's are not allowed to use limited MRW sites. **See definition of Limited MRW and 360(3)(i)(D).**
- **Discuss whether or not to allow businesses (CESQG's) to participate at limited sites .** As stated in the bullet above, CESQG's are not allowed to use a limited MRW site. If this is something we explore, we would want to make sure this would work as one of the options for CESQG's under 303(070)(8)(b). **See definition of Limited MRW .**
- **Discuss 360(5)(a)(iii)(C) further regarding “having a base underlying the containers which is free of cracks or gaps and is sufficiently impervious to contain leaks...”** This section has been interpreted in the past to mean the base underlying the containers needs to be coated with a

chemical resistant epoxy coating. We discussed this some when discussing matching up MRW and TSD design requirements, but further discussion is needed here. **See 360(5)(a)(iii)(C).**

- **Discuss the requirement to have 30" of aisle space between containers.** This requirement can add costs in the form of storage space and facility footprint. Consider removing the requirement if the material is stored for a certain amount of time (example – if stored for less than 30 days) or an exemption for loose or lab packed containers. **See 360(6)(a)(vi).**

Future Mtgs

- Location for face-to-face meeting: Ellensburg seemed to work as we have a mix of locations of where people would be coming from.
- Next meeting will be a conference call and after that we can determine future needs for face to face meetings.