

WAC 173-351 Rule Update Public Workshops

July 12 & 19, 2011

Washington Dept. of Ecology

<http://www.ecy.wa.gov/programs/swfa/rules/ruleDev.html>



DEPARTMENT OF
ECOLOGY
State of Washington

WAC 173-351

Rulemaking Schedule



Milestones	Date
Public Workshops (informal public comment period)	June 15 – July 29, 2011
CR 102 Filed: Proposed Rule-Making	November 2011
Public Hearings (formal public comment period)	November 2011
Close of Formal Comment Period (7 days after last public hearing)	November 2011
CR 103 Filed: Rule-Making Order	April 2012
Effective Date of Rule	May 2012

Why is the rule being revised?

- ▶ Adopt 2004 federal regulations to allow for issuance of Research, Development and Demonstration (RD&D) permits
- ▶ Bring rule into full conformance with federal regulations (40 CFR Part 258)
- ▶ Gain full EPA delegation
- ▶ Transition from WAC173-304 to WAC173-350
- ▶ General housekeeping issues such as new requirements, clarifications, typographical errors & technical updates

New section WAC 173-351-710, RD&D Permits

- ▶ JHD, with the written concurrence of Ecology, may issue a research, development, and demonstration permit (or allow variance) for a new MSWLF unit, existing MSWLF unit, or lateral expansion for:
 - Run-on controls *
 - Liquids restrictions *
 - Innovative cover designs *
- * Must maintain same level of protection of human health and environment as standards and no variance from GW monitoring, closure and post-closure requirements
- ▶ Requires annual progress reports
- ▶ Allows three year permit (renewed up to 4 times)

Bring rule into full conformance with 40 CFR Part 258

"Existing MSWLF unit" definition not approved by EPA

Eliminate clause

“For the purposes of this rule, any existing horizontal expansion approved by the jurisdictional health department for which as-built plans documenting construction prior to the effective date of this chapter, have been prepared and submitted ...”

Bring rule into full conformance with 40 CFR Part 258

- ▶ “*Equivalent*” liner design (and materials) in 351 rule not approved by EPA
- ▶ Current 351 liner design:
 - **Non-Arid**
 - Standard design
 - or
 - “*Equivalent*” design
 - **Arid**
 - Performance standard

Bring rule into full conformance with 40 CFR Part 258

- ▶ Federal rule: 40 CFR Part 258.40
 - Meet performance standard
 - or
 - Standard design
- ▶ Proposed changes:
 - Eliminate “equivalent” and “arid” designs
 - Add alternative design (performance standard)
 - Changes apply to both landfill and cover designs

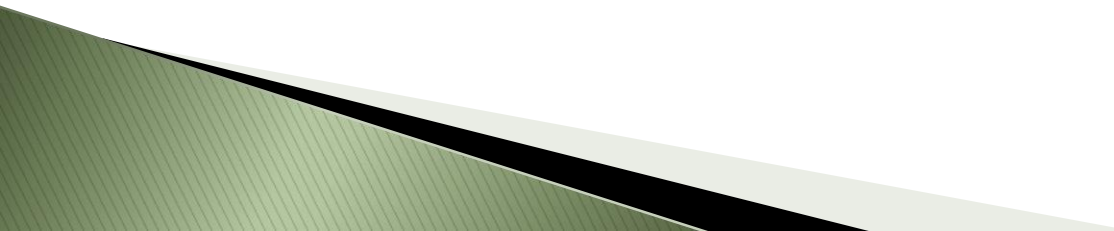
Other Amendments

- ▶ Change most references from WAC174-304 to WAC 173-350
- ▶ Unchanged: landfills still subject to closure and post-closure rules under chapter 173-304 WAC, Minimum Functional Standards for Solid Waste Handling
- ▶ Update financial assurance mechanism to correspond with current practice
 - Add surety bonds and letters of credit

General Housekeeping

- ▶ Licensed professional in accordance with the requirements of Chapter 18.220 RCW, Geologists
- ▶ Groundwater monitoring
 - Clarify detection & assessment monitoring
- ▶ PQLs deleted from Appendix III because they change over time
- ▶ Miscellaneous reference corrections and updates

Requested Feedback

- ▶ Permit Renewal
 - ▶ Liner Separation
 - ▶ Metals Analysis
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Permit Renewal: application vs. no application

- ▶ **WAC 173-351-720(1)(i)** requires an owner or operator to submit application prior to renewal. No change was made to this provision in this draft
- ▶ **WAC 173-304-600(2)(j)** requires applications
- ▶ **WAC 173-350-710(3)** and **RCW 70.95.190(1)** do not require applications
- ▶ Many MSWLF units are co-located with closed 304 landfill units and/or 350 solid waste handling activities

Liner Separation:

Should -140(1)(a) be changed to a non-contact standard when using a hydraulic gradient control system?

- ▶ WAC 173-351-140(1)(a) requires a 10 ft. separation from the bottom of the liner to the seasonal high level of groundwater, unless a hydraulic gradient control system is installed that maintains a 5 ft. separation
- ▶ WAC 173-350-400(3)(b)(iv) requires the same 10 ft. separation from the bottom of the liner but only requires a hydraulic gradient control system to maintain separation
- ▶ This requirement was changed in this draft from a location restriction to design criteria

Metals Analysis: Option 1 or 2

- ▶ Current rule has variable requirements for metals analysis in ground water (Appendix I and III). Ni and Hg are 'total metals' while all others are 'dissolved metals'.
- ▶ Two Options are being considered:
 - Option 1: Ni and Hg could be changed to dissolved
 - Option 2: All other metals could be changed to total; draft rule amendments include Option 2
- ▶ 40 CFR Part 258 Appendix I and II use total metals
- ▶ Water Quality Standards use total metals

Next Steps

- ▶ Revise draft rule based on comments received during informal comment period (6/15/11 – 7/29/11)
- ▶ Finalize proposed rule in *November 2011
- ▶ File CR 102 with Office of Code Reviser (begins formal comment period)
- ▶ Public Hearings in Fall/Winter 2011–12

** Note: target dates are estimates and may change*

How you can stay involved



LISTSERV e-mail notifications

<http://www.ecy.wa.gov/programs/swfa/ruleMSW.html>

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Rule Process Questions

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Questions?



- ▶ Thank you for participating in the rule-making process.
- ▶ Your comments are important to us!