

State of Washington Department of Ecology  
Variance from State Regulation

In the matter of approving a	)	Variance No. <DRAFT>
variance from WAC 173-400-	)	
050(1) for Greenside	)	
Construction, Inc. and the USDA	)	
Forest Service	)	

**Project Summary**

Greenside Construction, Inc. (Greenside) has been hired by the USDA Forest Service (Forest Service) to dispose of 55 piles (approximately 966 tons) of existing logging slash, utilizing a portable carbonator (a.k.a. air curtain incinerator (ACI)). The slash may legally be silvicultural burned. The carbonizer qualifies as a new source, subject to applicable source regulations (which differ from burning regulations). The carbonizer will be located approximately 10 miles west of the town of Twisp, Washington, up the Twisp River drainage, and 2.5 miles south on Buttercreek Road, in Okanogan County.

**Legal Authority**

This Variance is issued under the legal authority of Revised Code of Washington (RCW) 70A.15.2210 and Washington Administrative Code (WAC) 173-400-180.

**Findings of Fact**

1. The carbonizer will be located within Okanogan County, in the State of Washington. Air quality rules and regulations are administered in Okanogan County primarily by the Department of Ecology (Ecology).
2. On January 5, 2024, Greenside Construction applied for a Notice of Construction Air Quality Permit. Ecology found the application to be incomplete on January 29, 2024. Greenside submitted additional information on February 8, 2024, and Ecology specifically questioned whether the project would comply with the “grain loading” standard for combustion and incinerator units, found in WAC 173-400-050(1). On February 22, 2024, the Forest Service submitted additional information related to the grain loading standard. On February 29, 2024, Ecology stated that the project does not meet the grain loading standard, and encouraged them to apply for a variance from this standard. Greenside applied for a variance on March 26, 2024.
3. Carbonizers (a.k.a. Air Curtain Incinerators (ACIs)) burn wood waste in an insulated box while a diesel engine powered fan blows a curtain of air over the box. Compared to

traditional burning practices, ACIs allow more control over the burn and testing shows the ACIs reduce air emission by 50 to 98 percent. Ecology recognizes that the Forest Service could legally burn the piles and that doing so would likely produce more smoke and air contaminants than the proposed project.

4. WAC 173-400-030(19) defines “combustion and incinerator units” as units using combustion for waste disposal, steam production, chemical recovery or other process requirements; but excludes outdoor burning.
5. WAC 173-400-050(1) states, in part, that, “Combustion and incinerator emissions units must meet all requirements of WAC 173-400-040 and, in addition, no person shall cause or allow emissions of particulate matter in excess of 0.23 grams per dry cubic meter at standard conditions...”
6. Testing of a similar unit, in Oregon, in 2023, measured particulate matter of 0.28 grams per dry cubic meter at standard conditions. The carbonator in question may emit particulate matter at a similar rate, in exceedance of WAC 173-400-050(1).
7. RCW 70A.15.2310, allows for issuance of, “a variance from rules or regulations governing the quality, nature, duration or extent of discharges of air contaminants...” for a time period not to exceed one year upon finding that:  
  
“The emissions occurring or proposed to occur do not endanger public health or safety or the environment; and  
  
Compliance with the rules or regulations from which variance is sought would produce serious hardship without equal or greater benefits to the public.”
8. According to supporting documentation, the use of an ACI, in place of otherwise legal silvicultural burning, will not cause an exceedance of ambient air quality standards in areas reasonably accessible to the public outside of the project buffer boundary. Such standards are designed to protect the public health.
9. Compliance with WAC 173-400-050(1) would produce serious hardship to the extent that traditional burning has a lower level of control and safety and a higher level of air contaminant emissions.
10. The benefits of higher safety and lower air contaminant emissions extend to the public. The benefits of compliance with WAC 173-400-050(1) have not been demonstrated to exceed the benefits to the public of granting this Variance.

### **Declarations of Approval**

1. A variance from WAC 173-400-050(1), is hereby granted for carbonator disposal of logging debris, otherwise legal to silvicultural burn, within the Buttermilk Creek carbonizer project.

2. The variance shall expire on [date one year from date of issuance].
3. The Buttermilk Creek carbonizer project shall be executed according to the associated Notice of Construction Application and any associated Order of Approval.

Nothing in this Variance alters the Greenside's obligation to comply with other laws, including air laws and regulations. Any violation of such rules and regulations shall be subject to the sanctions provided in Chapter 70A.15 RCW.

### **Your Right to Appeal**

You have a right to appeal this Variance to the Pollution Control Hearings Board (PCHB) within 30 days of the date of receipt of this Variance. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal you must do all of the following within 30 days of the date of receipt of this Variance:

- File your appeal and a copy of this Variance with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.
- Serve a copy of your appeal and this Variance on Ecology in paper form - by mail or in person (see addresses below). E-mail is not accepted.

You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

### **Address and Location Information**

#### **Street Addresses:**

**Department of Ecology**  
Attn: Appeals Processing Desk  
300 Desmond Drive SE  
Lacey, WA 98503

**Pollution Control Hearings Board**  
1111 Israel Rd SW  
STE 301  
Tumwater, WA 98501

#### **Mailing Addresses:**

**Department of Ecology**  
Attn: Appeals Processing Desk  
PO Box 47608  
Olympia, WA 98504-7608

**Pollution Control Hearings Board**

PO Box 40903  
Olympia, WA 98504-0903

**E-mail Address:**

**Department of Ecology**  
Not currently available (see WAC 371-08)

**Pollution Control Hearings Board**  
Pchb-shbappeals@eluh0.wa.gov

**Americans with Disabilities Act Information**

**Accommodation Requests**

To request ADA accommodation including materials in a format for the visually impaired, call Ecology at 360-407-7668 or visit <https://ecology.wa.gov/accessibility>. People with impaired hearing may call Washington Relay Service at 711. People with speech disability may call TTY at 877-833-6341.

Dated on this XX Day of <Month>, 2024.

**Prepared by:**

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Department of Ecology  
State of Washington

**Approved by:**

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Department of Ecology  
State of Washington