



RULE-MAKING ORDER PERMANENT RULE ONLY

CR-103P (December 2017) (Implements RCW 34.05.360)

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: May 13, 2024

TIME: 7:24 AM

WSR 24-11-052

Agency: Department of Ecology AO #22-15

Effective date of rule:

Permanent Rules

- 31 days after filing.
 Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes No If Yes, explain:

Purpose: Chapter 70A.540 RCW, Landfills – Methane Emissions, establishes requirements for municipal solid waste (MSW) landfills that have received solid waste after January 1, 1992. Ecology has adopted rules to implement new requirements, including:

Technology and Performance Requirements:

- Gas collection and control system (GCCS) installation
- GCCS design plan
- Gas control system equipment
- GCCS performance
- Methane destruction efficiency for flares and energy recovery control devices
- Open flare systems
- Landfill gas treatment and processing
- Wellhead gauge pressure
- Devices measuring gauge pressure
- Instruments used to measure methane
- Control device destruction efficiency
- Gas generation flow rate calculation
- Source testing for any gas control device or devices
- Repairs and temporary shutdown of a GCCS

Monitoring Requirements:

- Instantaneous and integrated surface emissions monitoring
- Surface monitoring design plan
- Remonitoring and corrective action(s) for methane limit exceedances
- GCCS component monitoring
- Methane leak rate limits for treatment systems that process routed gas
- Wellhead gauge pressure monitoring
- GCCS shutdown and removal

Reporting and Recordkeeping Requirements:

- Waste in place reporting
- Landfill gas heat input capacity calculation and reporting
- Surface emissions and component monitoring reporting
- Reporting on GCCS operations
- Records maintenance for monitoring, source testing, landfill operations, operation of the GCCS, methane level exceedances, and actions involving the disturbance or removal of areas of the landfill surface
- Reporting for capping of landfill gas collection wells, removal, or cessation of GCCS equipment
- Landfill closure reporting

Other Requirements:

- Incorporating new statutory civil penalties for violation of the law and implementing rules
- Adopting maximum methane concentration limits for both owners and operators of active and closed MSW landfills
- Adopting exemptions for methane concentration limit exceedances due to activities defined in RCW 70A.540.050(3)
- Establishing a method for landfills to claim exemption from the rule
- Establishing a process for landfills to request approval of alternative compliance measures
- Terms and definitions

This rulemaking applies to MSW landfills that have received solid waste after January 1, 1992. This includes both active and closed MSW landfills as defined in RCW 70A.540.010, and inactive MSW landfills as defined in WAC 173-408-020. The adopted rule exempts the following types of landfills from these new requirements:

- Landfills that receive or received only hazardous waste(s).
- Landfills currently regulated under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Chapter 103 (CERCLA, also known as Superfund), if they meet the criteria for exemption set forth in the rule.
- Landfills that receive or received only “inert waste or non-decomposable wastes”, as defined in WAC 173-350-100.
- Limited purpose landfills, as defined in WAC 173-350-100.

If a MSW landfill partners with a third-party owner or operator, as defined in WAC 173-408-020, to operate all or a portion of the GCCS or energy recovery device, the obligation to comply with the requirements of this chapter are the responsibility of the owner or operator of the relevant portion of the GCCS or energy recovery device.

Landfill methane regulations adopted by the California Air Resources Board, the Oregon Environmental Quality Commission, and the United States Environmental Protection Agency informed Ecology’s rulemaking, as required by RCW 70A.540.020(3).

Citation of rules affected by this order:

New: WACs 173-408-010; -020; -030; -040; -050; -060; -070; -080; -090; -100; -110; -120; -130; -140; -150; -160; -170; -180; -190; -980; -990
Repealed:
Amended:
Suspended:

Statutory authority for adoption: Chapter 70A.540 RCW

Other authority: N/A

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 23-22-086 on October 30, 2023 (date).

Describe any changes other than editing from proposed to adopted version: Refer to the Concise Explanatory Statement for changes from the proposed rule to the adopted rule in the following sections:

WAC 173-408-020 Definitions

WAC 173-408-070 Landfill gas heat input capacity

- Subsection (4)

WAC 173-408-080 Gas collection and control systems

- Subsections (2), (4), and (9)

WAC 173-408-090 Permanent shutdown and removal of the gas collection and control system

- Subsection (1)

WAC 173-408-100 Methane concentration limits

- Subsection (4)

WAC 173-408-110 Monitoring

- Subsections (1) and (2)

WAC 173-408-120 Test methods and procedures

- Subsections (1), (2), (3), (4), and (6)

WAC 173-408-130 Alternative compliance measures

- Subsections (1), (2), and (3)

WAC 173-408-160 Recordkeeping requirements

- Subsection (1)

WAC 173-408-170 Reporting requirements

- Subsections (1), (6), and (8)

WAC 173-408-180 Civil penalty

- Subsection (3)

WAC 173-408-990 Appendix II

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: Bill Flagg

Address:

Department of Ecology

Air Quality Program

P.O. Box 47600

Phone: 564-669-1385

Fax: N/A

TTY: For Washington Relay Service or TTY call 711 or 877-833-6341.

Email: bill.flagg@ecy.wa.gov

Web site: <https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC-173-408>

Other: N/A

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	_____	Repealed	_____
Recently enacted state statutes:	New	<u>21</u>	Amended	_____	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted on the agency's own initiative:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	_____	Repealed	_____

Date Adopted: May 13, 2024

Name: Laura Watson

Title: Director

Signature:

A handwritten signature in black ink, appearing to read 'L. Watson', written in a cursive style.