



Department of Natural Resources and Parks

Solid Waste Division

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Bill Flagg
Department of Ecology
Air Quality Program
P.O. Box 47600
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December 11, 2023

Dear Bill Flagg:

The purpose of the letter is to transmit comments by the King County Solid Waste Division on the proposed new rule, Chapter 173-408 WAC, Landfill Methane Emissions, implementing Chapter 70A.540 RCW, Landfills – Methane Emissions. We appreciate the opportunity to review and provide input on the proposed rule.

King County is committed to reducing its greenhouse gas (GHG) emissions and has ambitious goals and commitments toward that end in its Strategic Climate Action Plan (SCAP). Strategy GHG 3.20 of the SCAP highlights the need to reduce landfill gas (LFG) emissions through improvements in LFG collection and control at the Cedar Hills Regional Landfill (CHRLF); a reduction in fugitive emissions not captured by the LFG collection system; and design improvements at closed landfills.

An example of recent efforts to further capture LFG at CHRLF includes the installation of 20 new LFG vertical collection wells in 2024, and installation of 58 or more additional wells in 2026-2027. A real-time LFG well monitoring system has also been installed on select wells to allow for adjustments to improve gas collection based on operating conditions.

The Solid Waste Division has also undertaken multiple initiatives to reduce the amount of recyclable and re-useable materials coming to the landfill and has taken numerous additional steps to enhance our ability to manage, collect, and monitor gas generated at the landfill.

In March 2022, the Governor signed House Bill (HB) 1799, requiring diversion of organic materials away from landfill disposal and towards food rescue programs and organics management facilities. In collaboration with the County's Wastewater Treatment Division, the Solid Waste Division is engaged in planning and alternatives analysis to process and treat food waste with municipal sewage sludge in a method called co-digestion. This project would help

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diversify our region's organics management portfolio, address new requirements established in HB 1799, and reduce greenhouse gas emission by efficiently capturing methane.

King County strongly supports the goals embodied in the landfill methane emissions legislation and in this rulemaking process. The Solid Waste Division offers these comments to improve clarity of the requirements for the benefit of all stakeholders, including regulated entities, regulatory agencies, and communities, and to ensure Chapter 173-408 WAC establishes a regulatory framework that prioritizes actions that will produce the greatest environmental benefits.

In alignment with the authorizing statute, Chapter 70A.540 RCW, Chapter 173-408 WAC seeks to reduce methane emissions from municipal solid waste landfills in Washington State. This will primarily be achieved by expanding the number of landfills in Washington that have gas collection and control systems (GCCSs), therefore, mitigating the uncontrolled release of methane. The rule also proposes additional requirements for controlling methane at Washington landfills already equipped with GCCSs. While this should further reduce methane emissions overall, the actual benefit from these landfills to the overall goal of the rule is expected to be small relative to newly controlled landfills. Despite that, the administrative burden posed by Chapter 173-408 WAC, as proposed, is disproportionately high as compared with the environmental benefit. As written, Chapter 173-408 WAC largely parallels existing federal requirements for controlling emissions from landfills but does so in a way that does not build upon those federal regulations. Instead, it recreates the foundational requirements using alternate terms and structure. The effective result for landfills already subject to the federal standards is the need to administer two separate compliance programs to demonstrate compliance with both state and federal requirements, despite those requirements being very similar. This approach is inefficient and introduces the potential for unnecessary confusion for operators of landfills subject to state and federal requirements for GCCSs. King County strongly encourages the Department of Ecology (Ecology) to reframe Chapter 173-408 WAC such that it mirrors existing federal regulations and builds upon them, as directed by statute, to implement a more stringent rule. This could be accomplished in several ways, as articulated in greater detail, below.

Ecology has stated throughout the rulemaking process that it intends to minimize the burden of complying with Chapter 173-408 WAC on landfills already subject to corresponding federal regulations. However, this intention is not reflected in the proposed rule language. King County recommends applying *one or more* of the following approaches to Chapter 173-408 WAC to avoid promulgating a rule that imposes a large administrative burden for minimal environmental benefit:

- i. Remove provisions in Chapter 173-408 WAC that are substantively similar to existing requirements in federal regulations and, instead, refer to the corresponding federal requirements;

and/or

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- ii. Replace provisions in Chapter 173-408 WAC that are substantively similar to existing requirements in federal regulations with *the exact language* used in corresponding federal regulations;

and/or

- iii. Exempt select landfills from portions of Chapter 173-408 WAC if those landfills are subject to corresponding requirements under federal regulations;

and/or

- iv. Revise rule language to explicitly identify each provision of Chapter 173-408 WAC that is satisfied by compliance with corresponding requirements under federal regulations.

Detailed examples illustrating each of the approaches suggested above are provided in the attached comment table (see Comment No. 1). King County encourages Ecology to make comprehensive revisions throughout the proposed rule, as applicable.

An additional area of concern for King County is the apparent inclusion of select *closed* landfills within the definition of “*active* municipal solid waste (MSW) landfills” [emphasis added]. The proposed definition for that term in Chapter 173-408-020 WAC is:

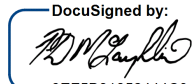
“Active municipal solid waste (MSW) landfill” means a municipal solid waste landfill that has accepted or is accepting solid waste for disposal and has not been closed in accordance with the requirements set forth in WAC 173-351-500 as it existed on January 10, 2022.

The proposed definition for “closed municipal solid waste landfill” is similarly limited to landfills closed under Chapter 173-351 WAC. As required by Chapter 70A.540 RCW, Chapter 173-408 applies to all MSW landfills that received waste after January 1, 1992, while Chapter 173-351 WAC did not take effect until November 26, 1993. Therefore, there was an approximately 23-month period during which a landfill subject to this proposed rule could have closed under a previous regulation (Chapter 173-304 WAC) rather than Chapter 173-351 WAC. Under the proposed definitions in Chapter 173-408 WAC, those *closed* landfills would be considered *active* landfills and would be subject to requirements in this rule for *active* landfills. This detail is counterintuitive, at best, and only becomes apparent after careful review and consideration of Chapters 173-408, -351, and -304 WAC. The level of effort and knowledge required to ascertain that select *closed* landfills would be subject to requirements in this rule specified for *active* landfills is unreasonable. King County strongly recommends revisions to language in this proposed rule to clearly and transparently articulate requirements in a way that can be reasonably understood by interested parties.

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These and other comments are further detailed in the attached table. Again, we thank you for this opportunity to comment on the proposed rule. If you have any questions, please contact Jennifer Keune at Jennifer.Keune@kingcounty.gov.

Sincerely,

DocuSigned by:

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Pat D. McLaughlin
Division Director

Enclosure

cc: Glynda Steiner, PE, CCM, Special Projects Manager, Solid Waste Division (SWD)
Theresa Thurlow, PE, Section Manager, SWD
Mark Monteiro, Operations Manager, SWD
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