



## WASHINGTON REFUSE & RECYCLING ASSOCIATION

December 13, 2023

Department of Ecology  
300 Desmond Drive SE  
Lacey, WA 98503

To Whom it May Concern:

The Washington Refuse and Recycling Association (WRRA) is the oldest Solid Waste Trade Association operating on the West Coast of the United States, founded 76 years ago. WRRA represents the private sector solid waste and recycling industry in Washington, from curbside collection service and state of the art recycling facilities and landfills. WRRA member companies and the solid waste industry serve a vital role in public health, safety, and environmental protection.

Our members provide essential services in their communities every day. Washington's solid waste system is a successful public-private partnership. Washington's regulated and municipal solid waste collection system provides for excellent service, has consistently beat the national recycling rate by double digits, and maintains family wage jobs in every community in which we operate all at a transparent and affordable price. We have an obligation to serve and to provide universal service as directed by the state and local governments.

Thank you for the opportunity to comment on the Draft WAC 173-408 Landfill Methane Emissions Rulemaking. WRRA members that own or operate landfills may also comment on the rulemaking. We appreciate the work done by staff in hosting webinars to facilitate communication as well.

### **1. Washington Statute & Legislative Intent**

WRRA supported [HB 1663 \(2022\)](#), the enacting legislation for this rulemaking. The language of RCW 70A.540 is highly technical and unusually detailed for a statute. As we commented on the earlier draft, the legislature expressed clear intent to follow [California's Landfill Methane Rule](#) by adopting large portions of that rule directly into statute. WRRA worked with the bill sponsors and committee members in the development of HB 1663 and is happy to provide legislative history if useful for the department.

Large portions of the proposed rule are drawn directly from the California rule and Washington statute, and WRRRA supports this approach to fulfill the legislative intent for this policy. Several WRRRA members that operate landfills in Washington also operate facilities under the California rule. Consistency with the California rule will help facilitate compliance and reduce the burden of reporting and implementing the rule.

## **2. Proposed WAC 173-408-110 Notice of Corrective Action**

WRRRA commented previously that WAC 173-408-110 (previously 173-408-070) was unworkable because it required reporting of exceedances *and* corrective action within 72 hours while the statute allowed 10 days for re-monitoring of exceedances. We thank the department for correcting this section and clarifying that notification is required within 48 hours of action taken to *correct* an exceedance.

WRRRA members report that WAC-173-408-110(b) still places an unnecessary reporting burden that is not required by any similar Federal rule (40 CFR 60, Subparts Cf or XXX, 40 CFR 62, Subpart OOO, 40 CFR 63, Subpart AAAA) or similar State plans Oregon Chapter 340, Division 239, California AB-32, or SCAQMD Rule 1150.1.

Identifying and repairing exceedances is a routine part of monitoring. Some locations may have corrective actions implemented over the course of several days. It is unclear whether a facility would be required to submit multiple notifications for the same location if repairs span multiple days. Rather than requiring notification of actions completed, the notifications should be reserved for cases when corrective actions could not be completed pursuant to regulatory time frames.

### Suggested Draft Rule Text (changes underline/strikethrough)

*The owner or operator of a MSW landfill must notify the department or local authority within two working days of any instances when corrective actions taken to address exceedances detected pursuant to (c) or (d) of this subsection, and subsection (2)(c) of this section cannot be completed within 10 calendar days. The notification must include a description of the corrective actions ~~taken~~ initiated but not yet completed and a description of why these corrective actions cannot be completed as required. The owner or operator of a MSW landfill may request alternative compliance measures to replace the requirements of this subsection pursuant to WAC 173-408-130.*

## **3. Monitoring Exemptions for Steep/Slippery Slopes and Other Dangerous Areas WAC 170-408-0110(1)(a)**

The conditions covering surface emissions monitoring requirements do not appear to directly include provisions for excluding dangerous areas from quarterly monitoring. These exclusions are included in Federal Rules [40 CFR 60.34f(d), 40 CFR 60.763(d), 40 CFR 62.16716(d), 40 CFR 63.1958(d)(1)], the Oregon Landfill Gas Emissions Rule (OAR 340-239-0500), the California AB-32 Landfill Methane Rule [§95468(a)(5)], and the South Coast Air Quality

Management District(SCAQMD) Rule 1150.1 (Section 3.1). We suggest modifying WAC 170-408-0110(1)(a) as follows:

Suggested Draft Rule Text

*(a) A surface monitoring design plan must be developed that includes a topographical map, at a minimum, with the monitoring traverse, exempt areas (including, but not limited to active filling areas, areas with steep/slippery slopes, and other dangerous areas), and the rationale for any site-specific deviations, and the surface monitoring design plan must be provided upon request by the department or local authority.*

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

WAC 173-408-090 includes provisions for the permanent shutdown and removal of the GCCS. This text uses language similar to that of the California AB-32 rule and SCAQMD Rule 1150.1, however the requirements for exiting the rule is increased to 8 consecutive quarters of monitoring with no locations over 200 parts per million by volume (ppm<sub>v</sub>). We propose to reduce this to four consecutive quarters to match the rules in California that the Washington rule was based upon.

Suggested Draft Rule Text

*(a) The owner or operator of the landfill shuts down the collection and control system and conducts surface emissions monitoring over the portion of the landfill served by the shut-down gas collection and control system, pursuant to WAC 173-408-120(3) and (b) of this subsection, for at least ~~eight~~ four consecutive calendar quarters.*

**5. Other Misc. Changes from the CA Rule:**

- The previous draft section 173-408-070(1)(a)(iii) (instantaneous surface monitoring) was copied over from the California rule, but the latest draft makes a substantive change from the California rule by deleting the language quote in strikethrough “Any closed MSW landfill, ~~or any closed or inactive areas on an active MSW landfill~~, that has no monitored exceedances of the limit specified in WAC 173-408-100(1)(a) after four consecutive quarterly monitoring periods may monitor annually.” The same change appears in 173-408-070(1)(b)(iii) (integrated surface monitoring) and 173-408-070(1)(c) (both types of monitoring).
  - We request that the Department return to the California language for consistency in keeping with legislative intent.
- New Language in section 173-408-120(3)(b)(iv): states “the location of each monitored exceedance must be marked, and the location and concentration recorded. The location must be recorded using an instrument with an accuracy of at least 14 feet. The coordinated must be in decimal degrees with at least five decimal places.”

- We request that the Department keep consistency with California language in keeping with legislative intent.

## **Conclusion**

Thank you for the opportunity to comment on this important topic and working with stakeholders on the implementation of this important legislation. We also appreciate the strong communication and responsiveness from the Department in providing draft rule language, outlining changes, and reasonable timelines for comment. All of these will ultimately benefit the Department, stakeholders, and the people of Washington in the final rule.

Please direct any questions or comments to Rod Whittaker at [rod@wrra.org](mailto:rod@wrra.org). Thank you for the opportunity to comment.

Respectfully submitted,

A handwritten signature in black ink that reads "Brad R. Lovaas". The signature is written in a cursive, flowing style.

Brad R. Lovaas

Executive Director