PREPROPOSAL STATEMENT OF INQUIRY

CR-101 (October 2017)
(Implements RCW 34.05.310)

Do **NOT** use for expedited rule making

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DATE: July 22, 2026
TIME: 9:18 AM

WSR 26-15-130

Agency: Department of Ecology AO #26-06

Subject of possible rule making: Ecology is considering amendments to two rules:

Chapter 173-408 WAC, Landfill Methane Emissions.

- This rule implements Chapter 70A.540 RCW (Landfills – Methane Emissions) and establishes requirements for both active and closed municipal solid waste (MSW) landfills that received solid waste after January 1, 1992. Ecology's policy under Chapter 70A.540 RCW is to reduce methane emissions from MSW landfills by requiring installation and operation of gas collection and control systems, monitoring methane surface emissions, reporting, recordkeeping, as well as other requirements. This rulemaking will create a new section in the rule that establishes a process to assess and collect fees from MSW landfills regulated by the Chapter 70A.540 RCW and Chapter 173-408 WAC.

- Ecology will also consider amending WAC 173-408-170, changing the existing annual reporting deadline for MSW landfills.

Chapter 173-455 WAC, Air Quality Fee Rule.

- This chapter consolidates most of the air quality-related fees into one rule, with exceptions listed under WAC 173-455-038. This rulemaking will amend the list of exceptions to specify that any new fees established through this rulemaking are included separately under Chapter 173-408 WAC.

The rulemaking may also make administrative and clarifying amendments to Chapter 173-408 WAC.

Statutes authorizing the agency to adopt rules on this subject: RCW 70A.540.130, RCW 70A.15.1010

Reasons why rules on this subject may be needed and what they might accomplish:

Chapter 173-408 WAC, Landfill Methane Emissions

- Amendments are needed for Ecology to establish a process to assess and collect fees from MSW landfills to support implementation of Chapter 70A.540 RCW and Chapter 173-408 WAC. Ecology has been implementing the law and rule since June of 2024 without fee collection, using one-time funding from the legislature. RCW 70A.540.130 authorizes Ecology to assess and collect fees to recover the costs associated with implementation of the law, but when the law was enacted in 2022 it did not specify an account for fees to be deposited into. SB 6151 (Chapter 87, Laws of 2026) amended RCW 70A.540.130 to specify that fees collected by Ecology be deposited into a specific account that can be accessed by Ecology in the future to recover costs associated with implementation. Costs associated with implementation include Ecology staff time to review submitted annual reports, alternative compliance requests, and conduct onsite inspections to assess compliance with the law and rule.

- Amendments will be considered to change the existing annual reporting deadline to a new date that is potentially less burdensome to the regulated community.

Chapter 173-455 WAC, Air Quality Fee Rule

- Amendments are needed to specify that the new fee structure being considered in this rulemaking is not contained in Chapter 173-455 WAC.

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies: Local clean air agencies have authority under Chapter 70A.540 RCW to implement regulations for MSW landfills that are in their jurisdiction. Ecology will communicate and work with local clean air agencies during rulemaking and provide opportunities for these agencies to submit informal and formal comments that will be considered during the rulemaking process.

Process for developing new rule (check all that apply):

- ☐ Negotiated rule making
- ☐ Pilot rule making
- ☐ Agency study
- ☒ Other (describe) Ecology will follow the standard process for the adoption of rules under the Administrative Procedure Act (Chapter 34.05 RCW.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting:

	(If necessary)
Name: Bill Flagg	Name:
Address: Department of Ecology Air Quality Program 300 Desmond Drive SE Lacey, WA 98503	Address:
Phone: 564-669-1385	Phone:
Fax: N/A	Fax:
TTY: Dial 711 to call through the Washington Telecommunications Relay for services like text telephone (TTY). Visit Ecology.wa.gov/ADA for more accessibility information.	TTY:
Email: bill.flagg@ecy.wa.gov	Email:
Web site: https://ecology.wa.gov/wac-173-408-455	Web site:
Other: Landfill methane updates distribution list Air quality rules and SIPs distribution list	Other:

Additional comments: Interested parties can stay informed about the rulemaking and public involvement opportunities as described above. Ecology will extend an offer for Government-to-Government consultation with tribal governments during each phase of rule development.

Ecology will conduct an Environmental Justice Assessment in accordance with RCW 70A.02.060 as a part of this rulemaking.

Date: 07/21/2026	**Signature:**
Name: Kathy Taylor	
Title: Air Quality Program Manager	