



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10**

1200 Sixth Avenue, Suite 155  
Seattle, WA 98101

ENFORCEMENT &  
COMPLIANCE ASSURANCE  
DIVISION

Reply To: 20-C04

**CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

Mr. Brian Evola  
District Manager  
Wasco County Landfill, Inc.  
2550 Steele Road  
The Dalles, Oregon 97058

Re: Notice of Violation under the Clean Air Act

Dear Mr. Evola:

Enclosed is a Notice of Violation (NOV) issued to Wasco County Landfill, Inc. (“Wasco”) under Section 113 of the Clean Air Act (CAA), 42 U.S.C. § 7413, by the United States Environmental Protection Agency (EPA). The NOV notifies Wasco of violations of the CAA at its facility in The Dalles, Oregon.

We encourage Wasco to correct the violations as soon as possible and request that Wasco report to EPA within 30 days of receipt of this letter regarding plans for correcting the violations. There may be substantial penalties for past and continuing violations of these requirements.

We are available to meet with representatives of Wasco to discuss the violations and Wasco’s plans for correcting them. To arrange a meeting, please contact Sara Conley, at (206) 553-6914 or [conley.sara@epa.gov](mailto:conley.sara@epa.gov) within 10 days of receipt of this letter. Please also contact Ms. Conley if you have any technical questions regarding this NOV. Contacts from legal counsel should be directed to Brandon Cobb, Assistant Regional Counsel, at (206) 553-6917 or [cobb.brandon@epa.gov](mailto:cobb.brandon@epa.gov).

To the extent Wasco submits information to EPA in response to this NOV or as part of discussions that result from this NOV, Wasco may assert a confidentiality claim covering part or all of the information by placing on or attaching to the information, at the time it is submitted to EPA, a cover sheet, stamped or typed legend or other suitable form of notice employing language such as “trade secret,” “proprietary” or “company confidential.” Allegedly confidential portions of otherwise non-confidential documents should be clearly identified by Wasco and may be submitted separately to facilitate identification and handling by EPA. Information covered by such a claim will be disclosed by EPA only to the extent and by the procedures set forth in statutes and 40 C.F.R. Part 2, Subpart B. Unless you make a claim at the time you submit the information in the manner described in 40 C.F.R. § 2.203(b), it may be made available to the public by EPA without further notice to you. 40 CFR 2.203; *see also* 41 Fed. Reg. 36902 (September 1, 1976).

Thank you for your attention to this important matter.

Sincerely,

**MORGAN  
JENCIUS**

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MORGAN JENCIUS  
Date: 2023.03.02  
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Morgan Jencius, Chief  
Air and Land Enforcement Branch

Enclosure

cc: Corporation Service Company  
Registered Agent

BEFORE THE  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of: )  
)  
WASCO COUNTY LANDFILL, INC. )  
) **NOTICE OF VIOLATION**  
The Dalles, Oregon )  
)  
Respondent. )  
)

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**I. STATUTORY AUTHORITY**

1. Pursuant to Section 113(a) of the Clean Air Act (“CAA”), 42 U.S.C. § 7413(a), the U.S. Environmental Protection Agency (“EPA”), through the Director of the Enforcement and Compliance Assurance Division, upon the basis of available information, hereby issues the following Notice of Violation (“NOV”) to Wasco County Landfill, Inc. (“Respondent”). The NOV alleges violations of the CAA at the landfill owned and operated by Respondent in The Dalles, Oregon.

2. The Administrator of EPA has delegated the authority to issue NOVs to the Regional Administrator, who has further delegated the authority to the Director of the Enforcement and Compliance Assurance Division, EPA, Region 10.

**II. STATUTORY AND REGULATORY BACKGROUND**

**i. Standards of Performance for Landfills**

3. Pursuant to Section 111(b) of the CAA, 42 U.S.C. § 7411(b), EPA has promulgated New Source Performance Standards (NSPS) for specified categories of stationary sources of air pollutants that are “new sources.” A “new source” is defined as “a stationary source, the construction or modification of which is commenced after the publication of NSPS regulations or proposed regulations that are applicable to such source.” 42 U.S.C. § 7411(a)(2). A “stationary source” is defined as including “buildings, structures, facilities or installations that emit or may emit any air pollutant.” 42 U.S.C. § 7411(a)(3). The term “modification” means “any physical change in, or change in the method of operation of, a stationary source which increases the amount of any air pollutant emitted by such source or which results in the emission of any air pollutant not previously emitted.” 42 U.S.C. § 7411(a)(4).

4. NSPS regulations apply to the owner or operator of any stationary source that contains an “affected facility,” the construction or modification of which is commenced after the date of publication of an NSPS (or, if earlier, the date of publication of any proposed standard) applicable to that facility. 40 C.F.R. § 60.1. “Affected facility” is defined, with reference to a stationary source, as any apparatus to which an NSPS is applicable. 40 C.F.R. § 60.2.

5. Section 111(e) of the CAA, 42 U.S.C. § 7411(e), prohibits the operation of any “new source” of air pollutants in violation of an NSPS applicable to such source. Thus, a violation of an NSPS requirement is a violation of Section 111(e) of the CAA.

6. Pursuant to Section 111 of the CAA, 42 U.S.C. § 7411, on March 12, 1996, EPA promulgated the NSPS for Municipal Solid Waste (MSW) Landfills at 40 C.F.R. Part 60, Subpart WWW. *See* 61 Fed. Reg. 9919.

7. At all times relevant to this NOV, 40 C.F.R. Part 60, Subpart WWW applied to MSW landfills that commenced construction, reconstruction, or modification on or after May 30, 1991, but before July 18, 2014, until said landfills became subject to an approved and effective state or federal plan implementing 40 C.F.R. Part 60 Subpart Cf. 40 C.F.R. § 60.750.

8. 40 C.F.R. Part 60, Subpart WWW requires new MSW landfills with a design capacity over 2.5 million megagrams by mass or 2.5 million cubic meters by volume to calculate the nonmethane organic compound (“NMOC”) emission rate of the landfill. 40 C.F.R. § 60.752(b). If the NMOC emission rate is equal to or greater than 50 megagrams per year, the landfill is required to install, operate, and monitor a gas collection and control system (GCCS) in accordance with NSPS requirements. 40 C.F.R. § 60.752(b)(2)(ii).

9. Pursuant to both 40 C.F.R. §§ 60.751 and 63.1990, an MSW landfill is defined as an entire disposal facility in a contiguous geographical space where household waste is placed in or on land.

**ii. Emission Standards for Hazardous Air Pollutants**

10. Sections 112(c), (d) and (k) of the CAA, 42 U.S.C. §§ 7412(c), (d) and (k), require EPA to publish a list of categories of “stationary sources” of hazardous air pollutants (HAPs), and to promulgate regulations establishing emission standards for major sources and certain area sources within those categories. These standards are known as the National Emissions Standards for Hazardous Air Pollutants (NESHAP) for Source Categories and are codified at 40 C.F.R. Part 63.

11. “Stationary source” under Section 112 has the same meaning as the term has under Section 111(a)(3) of the CAA. 42 U.S.C. § 7412(a)(3).

12. An “area source” is any source that is not a “major source.” 42 U.S.C. § 7412(a)(2).

13. A “major source” is any stationary source, or group of stationary sources, located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, more than 10 tons per year of any single HAP or 25 tons per year or more of any combination of HAPs. 42 U.S.C. § 7412(a)(1).

14. 40 C.F.R. Part 63 applies to the owner or operator of any stationary source that—  
(i) emits or has the potential to emit any HAP listed in or pursuant to section 112(b) of the CAA;  
and (ii) is subject to any standard, limitation, prohibition, or other federally enforceable  
requirement established pursuant to this part. 40 C.F.R. § 63.1(b)(1).

15. 40 C.F.R. § 63.2 defines HAPs as pollutants listed in, or pursuant to,  
Section 112(b) of the CAA.

16. Pursuant to 40 C.F.R. § 63.4(a), no “owner or operator” shall operate any  
“affected source” in violation of an applicable NESHAP, except under an extension of  
compliance or exemption from compliance as provided in that section or in CAA  
Section 112(i)(4), 42 U.S.C. § 7412(i)(4). An “affected source” is defined as a “collection of  
equipment, activities, or both within a single contiguous area and under common control that is  
included in a section 112(c) source category or subcategory for which a section 112(d) standard  
or other relevant standard is established pursuant to section 112 of the [CAA].” 40 C.F.R. § 63.2.

17. Pursuant to Section 112(d) of the CAA, 42 U.S.C. § 7412(d), on January 16,  
2003, EPA promulgated the NESHAP for MSW landfills at 40 C.F.R. Part 63, Subpart AAAA.  
*See* 68 Fed. Reg. 2227.

18. 40 C.F.R. Part 63 Subpart AAAA applies to MSW Landfills that have accepted  
waste since November 8, 1987 and are an area source landfill that has a design capacity equal to  
or greater than 2.5 million megagrams (Mg) and 2.5 million cubic meters (m<sup>3</sup>) and has estimated  
uncontrolled emissions equal to or greater than 50 megagrams per year (Mg/yr) NMOC. 40  
C.F.R. § 63.1935(a).

### **iii. Oregon 111(d) Plan for MSWLs**

19. Pursuant to Section 111(d) of the CAA, 42 U.S.C. § 7411(d), EPA has  
promulgated emission guidelines for MSWLs, which are codified at 40 C.F.R. § 60, Subpart Cf.  
*See* 81 FR 59332 (Aug. 29, 2016).

20. On October 8, 2020 (85 FR 63447), EPA approved Oregon's State Plan for implementation of the MSWL emission guidelines, which includes Oregon Administrative Rule (OAR) 340-236-0500. EPA's approval is codified at 40 C.F.R. § 62.9510 and incorporates by reference OAR 340-236-0500, with an effective date of November 9, 2020.

21. Pursuant to OAR 340-236-0500(1), Oregon's State Plan applies to MSWLs for which construction, reconstruction, or modification was commenced on or before July 17, 2014.

22. OAR 340-265-0500(2) of Oregon's State Plan states that a compliant GCCS must be installed and operated within 30 months of an NMOC report showing emissions above 34 Mg and that "Sources currently subject to 40 C.F.R. Part 60 subpart WWW that are subject to these rules must continue to comply with the requirements of subpart WWW until they become subject to the more stringent requirements of this rule."

#### **vi. Greenhouse Gas Reporting Requirements**

23. Pursuant to its authority under Section 114 of the CAA, 42 U.S.C. § 7414, the EPA established the mandatory Greenhouse Gas ("GHG") Reporting rules at 40 C.F.R. Part 98. The rules establish reporting requirements for owners and operators of certain facilities that directly emit GHGs.

24. EPA has promulgated regulations at 40 C.F.R. Part 98, Subpart HH for reporting of GHGs from MSWLs

25. Pursuant to 40 C.F.R. §§ 98.340(a) and 98.341, 40 C.F.R. Part 98, Subpart HH applies to landfills, landfill gas collection systems, and landfill gas destruction devices at MSWLs that accepted waste on or after January 1, 1980 and that meet the requirements of 40 C.F.R. § 98.2(a)(1), (2), or (3).

26. Pursuant to 40 C.F.R. § 98.2(a)(1) and 40 C.F.R. Part 98, Subpart A, Table A-3, the GHG reporting requirements apply to MSWLs that generate methane in annual amounts equal to or greater than 25,000 metric tons of CO<sub>2</sub> equivalent.

### III. GENERAL FINDINGS

27. Respondent is a “person” as that term is defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

28. Respondent is a wholly-owned subsidiary of Waste Connections, Inc.

29. At all times relevant to this NOV, Respondent owned and operated the Wasco County Landfill at 2550 Steele Road, The Dalles, Oregon 97058 (the “Facility”).

30. The Facility was originally sited and began receiving waste in the 1950s.

31. At all times relevant to this NOV, the Facility had a design capacity equal to or greater than 2.5 million megagrams of waste and 2.5 million cubic meters.

32. Up to and including the year 2018, Respondent reported a NMOC generation rate at the Facility below 50 Mg. Respondent estimated it would exceed 50 Mg of NMOC generation in 2019.

33. On December 30, 2019, Respondent submitted a GCCS Design Plan to the State of Oregon (“Design Plan”).

34. Respondent began construction on a GCCS at the Facility in April 2022 and began operating the GCCS on July 1, 2022. Prior to July 1, 2022, Respondent did not collect landfill gas.

35. EPA conducted a virtual inspection of the Landfill on May 9, 2022 and requested documents to review (“the Inspection”).

36. Waste records reviewed during and provided subsequent to the Inspection categorized waste as “PCS – high VOC” (petroleum-contaminated soil, high volatile organic compounds), “PCS – low VOC,” MSW (municipal solid waste), “residual,” asbestos, tires, “fluff,” ash, “Cleanup & MGT Fee/soil,” liquid, “IND & Special Waste,” and “CD.”

37. During the Inspection and in the follow up response, Waste Connections clarified the following about each category:

- a. “PCS – high VOC” refers to petroleum contaminated soils from spill cleanups and tank removal cleanups.
- b. “PCS – low VOC” refers to other petroleum contaminated cleanup soils.
- c. “Residual” refers to residual waste from materials recovery facilities (MRF), also known as “recycling residuals.”
- d. “Fluff” refers to automotive shredder residual material, also known as “auto fluff.”
- e. “Cleanup & MGT Fee/Soils” refers to biosolids, street sweepings, and soils.
- f. “IND & Special Waste” refers to industrial and any other special waste categories.
- g. “CD” refers to construction and demolition waste, also known as C&D.

38. During the Inspection, Waste Connections provided pulp/paper mill waste, waste from cherry orchards, and other agricultural waste as examples of industrial/special wastes received. EPA asked if Waste Connections received any inert or nondegradable industrial/special wastes, and Waste Connections did not identify any.

39. During the Inspection and confirmed with follow up documentation, Waste Connections stated that it did not track any of the above waste groups by nondegradable or inert subtypes.

40. Auto fluff is composed of residual material from vehicle recycling, including a mixture of fabrics, paper, wood, leather, rubber, plastics, paddings, and un-recovered metals. Autofluff degrades and produces methane, along with other landfill gas constituents.<sup>1</sup>

41. C&D waste is composed of various wastes generated from construction and demolition activities, including but not limited to wood, drywall, cardboard, concrete, carpet, roofing, and asphalt. In aggregate, unsorted C&D degrades and produces methane, among other landfill gas constituents. Table HH-1 in Part 98 Subpart HH provides methane generation factors for C&D waste.

42. Many industrial wastes, particularly pulp and paper mill wastes, degrade and produce methane and other landfill gas constituents. Table TT-1 in Part 98 Subpart TT provides methane generation factors for various pulp and paper waste mill types and non-specifically categorized industrial wastes.

43. Recycling residuals are materials rejected or leftover by MRFs, including a mixture of improperly sorted MSW, plastics, cardboard, paper, and food contaminated recyclables. These wastes degrade and produce methane and other landfill gas constituents.

44. Street sweepings include litter and vegetive matter. Biosolids refers to sewage sludge. Biosolids and street sweepings degrade and produce methane and other landfill gas constituents.

45. Petroleum contaminated soils degrade and produce methane and other landfill gas constituents.

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<sup>1</sup> See Raboni et al., “Automotive shredder residue: A survey of the hazardous organic micro-pollutants spectrum in landfill biogas,” WASTE MANAGEMENT & RESEARCH (2014); Aghdam et al., “Assessment of methane production from shredder waste in landfills: The influence of temperature, moisture and metals,” WASTE MANAGEMENT (2017).

## IV. VIOLATIONS

### Violation 1: Failure to Accurately Report GHG Emissions

46. The Findings in Section III are incorporated herein by reference.

47. Under 40 C.F.R. § 98.343(a)(1), MSWLs must calculate annual modelled methane generation according to the equation at 40 C.F.R. Part 98, Subpart HH, Equation HH-1:

$$G_{CH_4} = \sum_{x=S}^{T-1} \left\{ W_x \times MCF \times DOC \times DOC_F \times F \times \frac{16}{12} \times \left( e^{-k(T-x-1)} - e^{-k(T-x)} \right) \right\}$$

48. As used in Equation HH-1,  $W_x$  = Quantity of waste disposed in metric tons; DOC = Degradable organic carbon from Table HH-1 [fraction (metric tons C/metric ton waste)]; and  $k$  = Rate constant from Table HH-1 ( $\text{yr}^{-1}$ ).

49. 40 C.F.R. § 98.343(a)(2) states MSWLs must calculate methane emissions based on the quantities of each type of waste disposed, where available, using appropriate values for  $k$  and DOC from Table HH-1, and otherwise to use bulk waste parameters from Table HH-1 for mixed waste streams that cannot be designated to a specific material type.

50. Under 40 C.F.R. Part 98, Subpart HH, Table HH-1, a MSWL may distinguish between inert waste and bulk municipal solid waste (which excludes inert waste and construction and demolition waste) in calculating its annual methane generation. Inert waste is defined to include materials such as glass, plastics, metal, and concrete, and is given a DOC value of 0 and a  $k$  value of  $0 \text{ yr}^{-1}$ . The bulk MSW, excluding inerts and C&D, is given a DOC value of 0.31 and a  $k$  value of 0.02 to  $0.057 \text{ yr}^{-1}$  (depending on quantity of precipitation and leachate recirculation).

51. Under 40 C.F.R. § 98.8, any violation of a 40 C.F.R. Part 98 requirement is also a violation of Section 114 of the CAA, 42 U.S.C. § 7414. Violations include, among other things, failure to calculate GHG emission following the required methodologies.

52. Pursuant to 40 C.F.R. §§ 98.340(a) and 98.341, the Landfill is subject to GHG reporting requirements under 40 C.F.R. Part 98, Subpart HH, because the Landfill is a MSWL that accepted waste on or after January 1, 1980 and that generates methane in annual amounts equal to or greater than 25,000 metric tons of CO<sub>2</sub> equivalent.

53. In 2017, 2018, 2019, 2020, and 2021, Respondent submitted reports pursuant to 40 C.F.R. Part 98 reporting requirements, which identified two categories of waste—“bulk waste” and “inerts.” Bulk waste was assigned a DOC value of 0.2 and a k value of 0.02 yr<sup>-1</sup>. Inert waste was assigned a DOC value of 0 and a k value of 0 yr<sup>-1</sup>.

54. In a letter to EPA dated May 20, 2022, Respondent stated that it classifies all wastes besides MSW, C&D, and residuals as inert, and specifically stated that it considered the following types of waste as “inert” for purposes of its GHG reporting: petroleum contaminated soils, asbestos, tires, auto fluff, ash, cleanup and management fee waste (soil, biosolids, street sweeping), liquid, and industrial and special wastes.

55. Auto fluff, undifferentiated industrial wastes, pulp and paper mill waste, and cleanup and management fee wastes are not “inert” for purposes of 40 C.F.R. Part 98, Subpart HH because those wastes are known to produce methane gas when deposited in landfills. *See, e.g.*, 40 C.F.R. Part 98, Subpart HH, Table HH-1 (providing positive degradable organic carbon emission values for these categories of waste). In addition, these types of wastes are not listed as inert wastes listed in Table HH-1 (e.g., glass, plastics, metal, and concrete).

56. By failing to appropriately classify the wastes listed in Paragraph 55 in its calculation of methane generation for GHG reports submitted for calendar years 2017, 2018, 2019, 2020, and 2021, Respondent violated 40 C.F.R. § 98.8, 40 C.F.R. § 98.343(a)(1), and Section 114 of the CAA, 42 U.S.C. § 7414.

**Violation 2: Failure to Accurately Report NMOC Emission Rate and Install a GCCS**

57. The Findings in Section III are incorporated herein by reference.

58. Pursuant to 40 C.F.R. § 60.750(a),<sup>2</sup> the Facility is an affected facility within the meaning of 40 C.F.R. Part 60, subpart WWW because it is a municipal solid waste landfill that commenced construction, reconstruction, or modification on or after May 30, 1991, but before July 18, 2014.

59. Pursuant to 40 C.F.R. § 60.754(a)(1)(i), Respondent must calculate the annual NMOC emission rate at the Facility using the following equation:

$$M_{\text{NMOC}} = \sum_{i=1}^n 2 k L_o M_i (e^{-kt_i}) (C_{\text{NMOC}}) (3.6 \times 10^{-9})$$

As used in the equation,  $M_{\text{NMOC}}$  = the total NMOC emission rate from the Landfill, in megagrams per year;  $M_i$  = mass of solid waste in the  $i^{\text{th}}$  section, in megagrams; and,  $t_i$  = age of the  $i^{\text{th}}$  section, in years.

60. For purposes of calculating  $M_i$ , Respondent may subtract the mass of nondegradable solid waste, so long as it maintains documentation of the nature and amount of such waste. 40 C.F.R. § 60.754(a)(1)(i).

61. “Nondegradable waste” is defined as “any waste that does not decompose through chemical breakdown or microbiological activity. Examples are, but are not limited to, concrete, municipal waste combustor ash, and metals.” 40 C.F.R. § 60.751.

62. On September 30, 2016, Respondent reported the Facility’s NMOC emissions for calendar year 2016 as below 50 Mg/year, but estimated that it would exceed 50 Mg/year in 2019.

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<sup>2</sup> Respondent is subject to parallel provisions under 40 C.F.R. Part 63, Subpart AAAA, and EPA alleges that the violations identified herein also constitute violations of that Subpart.

Although it relied on the exclusion of nondegradable waste in its calculation, Respondent did not maintain documentation of the nature and amount of such excluded nondegradable waste.

63. In calculating emissions for calendar year 2016—and estimating emissions for subsequent years—Respondent excluded all non-MSW waste categories from the  $M_i$  variable, and thus excluded: C&D, recycling residuals, petroleum contaminated soils, auto fluff, biosolids, street sweepings, and industrial and special wastes.

64. The categories of waste listed in Paragraph 63 commonly decompose through chemical breakdown or microbiological activity and thus do not meet the definition of “nondegradable waste” under 40 C.F.R. § 60.751. Therefore, Respondent improperly excluded these wastes from its calculation of NMOC emissions for 2016 and subsequent years, leading to inaccurate and underestimated emissions rates.

65. With these improperly excluded categories of waste included in a calculation of Respondent’s annual NMOC emissions, Respondent exceeded the 50 Mg/year NMOC threshold in 2016 at the latest, and these calculations indicate that Respondent may have exceeded that threshold as early as 2009.

66. As the 2016 NMOC Report should have demonstrated emissions above 50 Mg/year for the year 2016, a GCCS Plan was due November 30, 2017, and a compliant GCCS was required to be in operation by May 30, 2019. 40 C.F.R. §§ 60.752(b)(2) and 63.1959(b)(2).

67. By improperly excluding degradable wastes, the Facility violated the test method requirements of 40 C.F.R. § 60.754(a)(1)(i) in its NMOC Reports for 2016, 2017, and 2018.

68. By failing to accurately calculate NMOC emissions as required by 40 C.F.R. § 60.754(a)(1)(i), Respondent violated the requirement to timely submit a GCCS plan pursuant to 40 C.F.R. § 60.752(b)(2)(i); the requirement to timely install a GCCS pursuant to 40 C.F.R. §

60.752(b)(2)(ii); and, the requirement to collect landfill gas and route all collected gas to a control system pursuant to 40 C.F.R. § 60.752(b)(2)(iii).

69. By failing to install and operate a GCCS according to the required timeframe, Respondent violated emissions, operational, monitoring, and reporting requirements under 40 CFR Part 60, subpart WWW and subsequently the Oregon State Plan.

**Violation 3: Failure to Design and Operate an Adequate GCCS**

70. The Findings in Paragraphs Section III are incorporated herein by reference.

71. Pursuant to Oregon’s State Plan at OAR 340-236-0500(5)(b), a MSWL with an annual NMOC emission rate equal to or greater than 34 megagrams per year must submit a collection and control system design plan within 1 year. The GCCS plan must ensure compliance with the emissions limits and operational requirements under 40 C.F.R. § 60.33f(b) and (c).

72. Pursuant to 40 C.F.R. § 60.33f(b)(2)(i), the GCCS must “[b]e designed to handle the maximum expected gas flow rate from the entire area of the landfill that warrants control over the intended use of the gas control system equipment.”

73. Pursuant to 40 C.F.R. § 60.36f(a)(1)—which Oregon has incorporated into its State Plan at OAR 340-265-0500(11)—Respondent must calculate maximum expected gas flow rate at the Facility using Equation 6 at 40 C.F.R. § 60.36f(a)(1)(ii) if the Facility has a known solid waste acceptance rate:

$$Q_M = \sum_{i=1}^n 2kL_o M_i (e^{-kt_i})$$

74. The equation at 40 C.F.R. § 60.36f(a)(1)(ii) requires, among other things, inputs for  $M_i$ , the mass of solid waste in the  $i^{\text{th}}$  section, in megagram units.

75. Respondent stated in the Design Plan that it excluded nondegradable waste from the calculation of the maximum expected gas flow rate, but made no request to exclude any specific waste types from the calculation.

76. Respondent submitted a GCCS Design Plan on December 30, 2019. The Design Plan contained an analysis of the NMOC maximum expected gas flow rate at the Facility and claimed to be using an estimate of the degradable fraction of waste for the calculation.

77. According to the December 30, 2019 GCCS Design Plan, Respondent estimated a maximum expected gas flow rate of 965 standard cubic feet per minute (scfm) in 2021 and 3,875 scfm in 2053. The GCCS plan provided for installation of a flare and blower control system, which has the capacity to control emissions at a rate up to 2,000 scfm.

78. As follow up to the EPA inspection and confirmed by waste records, Respondent clarified that the GCCS Design Plan excluded all non-MSW waste categories from the analysis, and thus excluded: C&D, recycling residuals, petroleum contaminated soils, auto fluff, biosolids, street sweepings, and industrial and special wastes.

79. EPA recalculated the NMOC maximum expected gas flow rate at the Facility without inappropriate waste exclusion. Based on these calculations, EPA estimates the LFG flow rate at the Facility was 2,145 scfm in 2019 and will reach a maximum flow rate of 6,676 scfm.

80. By excluding significant quantities of degradable solid waste from its GCCS plan, Respondent violated the requirement to accurately calculate its NMOC maximum expected gas flow rate as required by OAR 340-265-0500(11) and 40 C.F.R. § 60.36f(a)(1).

81. By excluding significant quantities of solid waste from its GCCS plan, Respondent violated the requirement to design and operate a GCCS capable of handling the

maximum expected gas flow rate for the entire area of the landfill as required by OAR 340-350-0500(5)(b) and 40 C.F.R. § 60.33f(b)(2)(i).

## V. ENFORCEMENT

82. Violations of the CAA may result in a civil administrative or judicial action for an injunction or civil penalties as provided in Section 113(b)(2) and 113(d)(1) of the CAA, 42 U.S.C. § 7413(b)(2) and 7413(d)(1), and 40 C.F.R. § 19.4, as well as criminal sanctions as provided in Section 113(c) of the CAA, 42 U.S.C. § 7413(c).

83. Section 113 of the CAA authorizes EPA to issue an order requiring any person that is in violation of the CAA, including an approved State, Tribal, or Federal Implementation Plan or any regulations promulgated under the CAA, to comply with the requirements of the CAA, Implementation Plan, or regulations.

84. This NOV does not waive or limit EPA's right to any remedy available to it under the CAA.

Issued this \_\_\_\_ day of \_\_\_\_\_, 2022.

**MORGAN  
JENCIUS**

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Morgan Jencius, Chief  
Air and Land Enforcement Branch