



**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. Kevin Green
District Manager
Pierce County Recycling, Composting and Disposal DBA LRI
3 Waterway Square Place, Suite 110
The Woodlands, Texas 77380-3488

Re: Notice of Violation under the Clean Air Act

Dear Mr. Green:

Enclosed is a Notice of Violation (NOV) issued to Pierce County Recycling, Composting and Disposal doing business as LRI (“LRI”) 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 LRI of violations of the CAA at its facility in Graham, Washington.

We encourage LRI to correct the violations as soon as possible and request that LRI 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 LRI to discuss the violations and LRI’s plans for correcting them. To arrange a meeting, please contact Sara Conley, at (206) 553-6914 or 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.

To the extent LRI submits information to EPA in response to this NOV or as part of discussions that result from this NOV, LRI 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 LRI 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**

Digitally signed by
MORGAN JENCIUS
Date: 2023.03.01
20:46:37 -08'00'

Morgan Jencius, Chief
Air and Land Enforcement Branch

Enclosure

cc: Chris Hanlon-Meyer
Washington Department of Ecology

Steve Van Slyke
Compliance Director, Puget Sound Clean Air Agency

Corporation Service Company
Registered Agent

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10**

In the Matter of:

Pierce County Recycling, Composting and
Disposal, LLC DBA Land Recovery Inc.

Puyallup, Washington

Respondent

NOTICE OF VIOLATION

I. AUTHORITIES

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 Pierce County Recycling, Composting and Disposal, LLC, doing business as Land Recovery Inc. (“Respondent”). The NOV alleges violations of the CAA at the landfill owned and operated by Respondent in Puyallup, Washington.

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. The National Ambient Air Quality Standards

3. Section 108(a) of the Act, 42 U.S.C. § 7408(a), requires the Administrator of the EPA to identify and prepare air quality criteria for each air pollutant, emissions of which may endanger public health or welfare, and the presence of which results from numerous or diverse

mobile or stationary sources. For each such "criteria" pollutant, Section 109 of the Act, 42 U.S.C. § 7409, requires the EPA to promulgate national ambient air quality standards (NAAQS) requisite to protect the public health and welfare.

4. Pursuant to Sections 108 and 109, 42 U.S.C. §§ 7408 and 7409, the EPA has identified sulfur dioxide (SO₂), nitrogen dioxide (NO₂), fine particulate matter (PM_{2.5}), particulate matter (PM or PM₁₀), and ozone as criteria pollutants, and has promulgated NAAQS for such pollutants. *See* 40 C.F.R. §§ 50.4, 50.5, 50.6, 50.11, and 50.15.

5. Under Section 107(d) of the Act, 42 U.S.C. § 7407(d), each state is required to designate those areas within its boundaries where the air quality is better or worse than the NAAQS for each criteria pollutant, or where the air quality cannot be classified due to insufficient data. An area that meets the NAAQS for a particular pollutant is termed an "attainment" area with respect to such pollutant. An area that does not meet the NAAQS for a particular pollutant is termed a "nonattainment" area with respect to such pollutant.

6. An area that cannot be classified as either "attainment" or "nonattainment" with respect to a particular pollutant due to insufficient data is termed "unclassifiable" with respect to such pollutant.

7. At all times relevant to this NOV, the Seattle-Tacoma area, where the Landfill is located, has been classified as attainment or unclassifiable with respect to SO₂.

ii. Regulations Under the Washington State Implementation Plan (SIP)

8. The Clean Air Act requires each state to adopt a plan for the implementation, maintenance, and enforcement of the NAAQS for pollutants, and to submit that plan to EPA for approval. 42 U.S.C. § 7410.

9. EPA has approved a state implementation plan (SIP) for the State of Washington, including a portion of the approved SIP applicable within the jurisdiction of the Puget Sound Clean Air Agency (PSCAA), and EPA has codified the approved SIP at 40 C.F.R. § 52.2470.

10. EPA approved PSCAA Regulation 6.01, effective August 1, 2018, into the Washington SIP on April 22, 2020. 85 Fed. Reg. 22,357.

11. EPA approved PSCAA Regulation 6.03, effective November 1, 2015, into the Washington SIP on April 22, 2020. 85 Fed. Reg. 22,537.

iii. The Prevention of Significant Deterioration Program

12. Part C of Title I of the Act, 42 U.S.C. §§ 7470-7492, sets forth requirements for the prevention of significant deterioration of air quality in those areas designated as either attainment or unclassifiable for purposes of meeting the NAAQS standards. These requirements are designed to protect public health and welfare, to assure that economic growth will occur in a manner consistent with the preservation of existing clean air resources, and to assure that any decision to permit increased air pollution is made only after careful evaluation of all the consequences of such a decision and after public participation in the decision making process. 42 U.S.C. § 7470. These provisions are referred to herein as the "PSD program."

13. Section 165(a) of the Act, 42 U.S.C. § 7475(a), among other things, prohibits the construction and operation of a "major emitting facility" in an area designated as attainment or unclassifiable unless a permit has been issued that comports with the requirements of Section 165 and the facility employs the best available control technology ("BACT") for each pollutant subject to regulation under the Act that is emitted from the facility.

14. Section 169(2)(C) of the Act, 42 U.S.C. § 7479(2)(C), defines "construction" to include "modification" (as defined in Section 111(a) of the Act). "Modification" is defined in Section 111(a) of the Act, 42 U.S.C. § 7411(a), to be "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."

15. Sections 110(a) and 161 of the Act, 42 U.S.C. §§ 7410(a) and 7471, require each state to adopt a state implementation plan (SIP) that contains emission limitations, and such other measures as may be necessary to prevent significant deterioration of air quality in areas designated as attainment or unclassifiable.

16. A state may comply with Sections 110(a) and 161 of the Act, 42 U.S.C. §§ 7410(a) and 7471, by having its own PSD regulations, which must be at least as stringent as those set forth at 40 C.F.R. § 51.166, approved by the EPA as part of its SIP. If a state does not have a PSD program that has been approved by the EPA and incorporated into its SIP, the federal PSD regulations set forth at 40 C.F.R. § 52.21 may be incorporated by reference into the SIP. 40 C.F.R. § 52.21(a).

17. On May 31, 1972, EPA approved the original SIP for the state of Washington. 37 Fed. Reg. 10,900. EPA approved a revision to the Washington SIP that included regulations implementing the PSD program on April 29, 2015. 80 Fed. Reg. 23721. Washington's PSD program—with certain exceptions codified at 40 C.F.R. § 52.2497 and not relevant here—is implemented through the regulations at Washington Administrative Code (WAC) 173-400-700 through 750. *See* 40 C.F.R. § 52.2470(c).

18. Pursuant to Puget Sound Clean Air Agency Regulation (PSCAA) 6.01(b), which EPA has approved into the Washington SIP at 40 C.F.R. § 50.2470(c), the Washington Department of Ecology is the permitting agency for the PSD permitting program under WAC 173-400-700 through 750 within the geographic jurisdiction of the PSCAA.

iv. CAA New Source Performance Standards (“NSPS”)

19. 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).

20. 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.

21. 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.

22. EPA has promulgated general provisions for the NSPS at 40 C.F.R. Part 60, Subpart A (“NSPS Subpart A”), which contain general provisions that apply to the owner or operator of any stationary source subject to an NSPS. 40 C.F.R. § 60.1(a).

23. Pursuant to 40 C.F.R. § 60.11(d), the NSPS general provisions require that, at all times, including periods of startup, shutdown, and malfunction, owners and operators shall, to the extent practicable, maintain and operate any affected facility, including associated air pollution control equipment, in a manner consistent with good air pollution control practices for minimizing emissions, which is determined by information that may include monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source.

Standards of Performance for MSW Landfills

24. Pursuant to Section 111 of the CAA, 42 U.S.C. § 7411, on March 12, 1996, EPA promulgated the NSPS for Municipal Solid Waste Landfills (“MSW”) at 40 C.F.R. Part 60, Subpart WWW. *See* 61 Fed. Reg. 9919. The NSPS for MSW landfills was amended on June 16, 1998 (63 Fed. Reg. 32743), February 24, 1999 (64 Fed. Reg. 9258), April 10, 2000 (65 Fed. Reg. 18906), October 17, 2000 (65 Fed. Reg. 61778), and September 21, 2006 (71 Fed. Reg. 55127).

25. The NSPS for MSW landfills applies to MSW landfills that commenced construction, reconstruction, or modification on or after May 30, 1991. 40 C.F.R. § 60.750(a).

26. The NSPS 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).

Emissions Guidelines and Federal Plan for MSW Landfills

27. Pursuant to Section 111(d)(1) of the CAA, 42 U.S.C. § 7411(d)(1), EPA has prescribed regulations at 40 C.F.R. Part 60, Subpart B, establishing procedures under which each State must submit to the Administrator a plan that (A) establishes standards of performance for any existing source for any air pollutant (i) for which air quality criteria have not been issued or which is not included on a list published under section 7408(a) of this title or emitted from a source category which is regulated under section 7412 of this title but (ii) to which a standard of performance under this section would apply if such existing source were a new source, and (B) provides for the implementation and enforcement of such standards of performance.

28. Pursuant to Section 111(d)(2)(A) of the CAA, 42 U.S.C. § 7411(d)(2)(A), EPA has the authority to prescribe a plan for a State in cases where the State fails to submit a satisfactory plan.

29. Pursuant to Section 111(d) of the CAA, 42 U.S.C. § 7411(d), and 40 C.F.R. Part 60, Subpart B, EPA promulgated Emissions Guidelines at 40 C.F.R. Part 60, Subpart Cf, which establish control, monitoring, reporting, and recordkeeping requirements for MSW Landfills for which construction, reconstruction, or modification was commenced on or before July 17, 2014. *See* 81 Fed. Reg. 59,726 (Aug. 29, 2016).

30. Pursuant to Section 111(d) of the CAA, 42 U.S.C. § 7411(d), and 40 C.F.R. Part 60, Subpart B, EPA promulgated a Federal Plan implementing the Emissions Guidelines in States where State Plans are not in effect. *See* 86 Fed. Reg. 27,756 (May 21, 2021). EPA codified the Federal Plan at 40 C.F.R. Part 62, Subpart OOO.

v. CAA National Emissions Standards for Hazardous Air Pollutants

31. Sections 112(c), (d) and (k) of the CAA 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. 42 U.S.C. §§ 7412(c), (d) and (k). 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.

32. “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). Section 112 of the CAA defines “major source” as 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). An “area source” is any source that is not a “major source.” 42 U.S.C. § 7412(a)(2).

33. EPA has promulgated general provisions for the NESHAPs at 40 C.F.R. Part 63, Subpart A (“NESHAP Subpart A”), which contain general provisions that apply as specified in the relevant NESHAP. 40 C.F.R. § 63.1(a)(4)(i). In particular, the regulation at 40 C.F.R. § 63.9(b) requires the affected source to submit an initial notification no later than 120 calendar days after the effective date of the relevant standard. In addition, the regulation at 40 C.F.R. § 63.9(h) requires the affected source to submit a notification of compliance status before the close of business on the 60th day following the completion of the relevant compliance demonstration activity specified in the relevant standard.

34. HAPs are defined at 40 C.F.R. § 63.2 to mean pollutants listed in, or pursuant to, Section 112(b) of the CAA.

35. “New source” is defined as a stationary source the construction or reconstruction of which is commenced after the Administrator first proposes regulations under Section 112 establishing an emission standard applicable to such source. 42 U.S.C. § 7412(a)(4); see also 40 C.F.R. § 63.2.

36. “Existing Source” means any stationary source other than a new source. 42 U.S.C. § 7412(a)(10); see also 40 C.F.R. § 63.2.

37. 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.

NESHAP for MSW Landfills

38. Pursuant to Sections 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.

39. The NESHAP Subpart A provisions that apply to Subpart AAAA are specified in 40 C.F.R. Part 63, Subpart AAAA, Table 1, and include the operation and maintenance requirements in 40 C.F.R. § 63.6(e).

40. Pursuant to 40 C.F.R. § 63.6(e), the NESHAP Subpart A provisions require that, at all times, including period of startup, shutdown, and malfunction, owners and operators shall, to the extent practicable, maintain and operate any affected facility, including associated air pollution control equipment, in a manner consistent with good air pollution control practices for minimizing emissions, which is determined by information that may include monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source.

41. The NESHAP for MSW Landfills requires new MSW landfills to continue to comply with NSPS requirements, 40 C.F.R. Part 60, Subpart WWW, promulgated or approved under Section 111 of the CAA, 42 U.S.C. § 7411, and imposes additional requirements. 40 C.F.R. § 63.1955.

vi. Greenhouse Gas Reporting Requirements

42. 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.

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

44. 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).

45. 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 CO₂ equivalent.

46. Pursuant to 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.

III. GENERAL FINDINGS

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

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

49. At all times relevant to this NOV, Respondent was the “owner” and “operator” of Pierce County Recycling, Composting and Disposal, LLC dba LRI (the Landfill), a MSW landfill located at 30919 Meridian Avenue East, Graham, WA 98338, as those terms are defined in 40 C.F.R. §§ 60.2 and 63.2.

50. At all times relevant to this NOV, the Landfill was a “stationary source” as that term is defined in Section 111(a)(3) of the Act, 42 U.S.C. § 7411(a)(3).

51. At all times relevant to this NOV, the Landfill was an “affected facility” and an “affected source” as those terms are defined in 40 C.F.R. § 60.2 and 40 C.F.R. § 63.2, respectively.

52. The Landfill was originally sited and began receiving waste in 1999. It has expanded since that time and is projected to continue accepting waste through 2023.

53. In March 2007, Respondent submitted a GCCS Design Plan to Puget Sound Clean Air Agency. Respondent submitted a revised design plan in March 2010. According to the design plan, the Landfill has a design capacity of approximately 27.3 million tons, or 24.8 million megagrams, of waste.

54. At all times relevant to this NOV, the Landfill had uncontrolled NMOC emissions equal to or greater than 50 megagrams per year, as calculated using the procedures specified at 40 C.F.R. § 60.754.

55. At all times relevant to this NOV, the Landfill operated a GCCS that includes gas collection wells, a blower that directs flare gas to engines, and two enclosed flares.

56. According to the design plan, the landfill footprint is approximately 168 acres.

57. At all times relevant to this NOV, the Landfill had a NMOC emission rate equal to or greater than 50 megagrams per year, as calculated using the procedures specified at 40 C.F.R. § 60.754.

58. At all times relevant to this NOV prior to June 21, 2021, Respondent’s Landfill was subject to the New Source Performance Standards at 40 C.F.R. Part 60, Subpart WWW.

59. At all times including and after June 21, 2021, Respondent was subject to the Federal Plan requirements for MSW Landfills codified at 40 C.F.R. Part 62, Subpart OOO at the Landfill.

60. At all times relevant to this NOV, Respondent was subject to the National Emissions Standards for Hazardous Pollutants for MSW landfills codified at 40 C.F.R. Part 63, Subpart AAAA at the Landfill.

61. On April 12, 2018, September 9, 2021, and May 2, 2022, EPA conducted inspections of the Landfill.

VIOLATIONS

Violation 1: Failure to Comply with PSD Requirements

62. Pursuant to WAC 173-400-720(1), “[n]o major stationary source or major modification to which the requirements of this section apply is authorized to begin actual construction without having received a PSD permit.”

63. Pursuant to WAC 173-400-720(4)(vi), the Washington SIP adopts the definitions at 40 C.F.R. § 52.21(b), except the definition of “secondary emissions.”

64. Pursuant to 40 C.F.R. § 52.21(b)(1)(i)(b), “major stationary source” includes, *inter alia*, any stationary source that emits, or has the potential to emit, 250 tons per year or more of a regulated new source review (NSR) pollutant.

65. Pursuant to 40 C.F.R. § 52.21(b)(5), “stationary source” means any building, structure, facility, or installation that emits or may emit a regulated NSR pollutant.

66. Pursuant to 40 C.F.R. § 52.21(b)(50)(i), “regulated NSR pollutant” includes any pollutant for which a NAAQS has been promulgated.

67. Pursuant to 40 C.F.R. § 52.21(b)(2), “major modification” means any physical change in or change in the method of operation of a major stationary source that would result in: a significant emissions increase of a regulated NSR pollutant; and a significant net emissions increase of that pollutant from the major stationary source.

68. Pursuant to 40 C.F.R. § 52.21(b)(40), “significant emissions increase” means an increase in emissions that is significant (as defined in 40 C.F.R. § 52.21(b)(23)) for that pollutant.

69. Pursuant to 40 C.F.R. § 52.21(b)(23), “significant” means a rate of emissions that would equal or exceed, as relevant here, 40 tons per year of SO₂.

70. Pursuant to 40 C.F.R. § 52.21(b)(3)(i), “net emissions increase” means the amount by which the sum of the following exceeds zero: the increase in emissions from a particular physical change or change in the method of operation at a stationary source; and, any other increases and decreases in actual emissions at the major stationary source that are contemporaneous with the particular change and are otherwise creditable.

71. Pursuant to 40 C.F.R. § 52.21(b)(21)(ii), “actual emissions” means the average rate, in tons per year, at which the unit actually emitted the pollutant during a consecutive 24-month period preceding the particular date and which is representative of normal operation. In addition, for any emission unit that has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date. 40 C.F.R. § 52.21(b)(21)(iv).

72. Pursuant to 40 C.F.R. § 52.21(b)(7), “emissions unit” means any part of a stationary source that emits or would have the potential to emit any regulated NSR pollutant, and that fits into one of the following two types of emissions units: a new emissions unit is any emissions unit that is (or will be) newly constructed and that has existed for less than 2 years from the date such emissions unit first operated; and, an existing emissions unit is any emissions unit that is not a new emissions unit and includes a replacement unit.

73. Pursuant to WAC 173-400-720(4)(v), the Washington SIP adopts, *inter alia*, 40 C.F.R. § 52.21(j).

74. Pursuant to 40 C.F.R. § 52.21(j)(3), a major modification must apply best available control technology (BACT) for each regulated NSR pollutant for which it would result in a significant emissions increase at the source. This requirement applies to each proposed emissions unit at which a net emissions increase in the pollutant would occur as a result of a physical change or change in the method of operation in the unit. *Id.*

75. Pursuant to 42 U.S.C. § 7479(3), “BACT” means an emission limitation based on the maximum degree of reduction of each pollutant subject to regulation under this chapter emitted from or which results from any major emitting facility, which the permitting authority, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such facility through application of production processes and available methods, systems, and techniques, including fuel cleaning, clean fuels, or treatment or innovative fuel combustion techniques for control of each such pollutant.

76. Respondent’s Landfill is a “major stationary source” within the meaning of 40 C.F.R. § 52.21(b)(1)(i)(b).

77. Respondent has the potential to emit 250 tons per year or more of SO₂.

78. Respondent undertook the replacement of an enclosed combustor at the Landfill on or around December 2022, which included the installation and startup of a higher-capacity combustor.

79. Respondent’s construction of an enclosed combustor resulted in an emissions increase, and a net emissions increase, greater than the significance threshold of 40 tons per year.

80. By constructing a major modification to the Landfill without first receiving a PSD permit, Respondent violated WAC 173-400-720(1) and 40 C.F.R. § 52.2470(c).

Violation 2: Modification of Control Equipment without a Pre-Construction Permit

81. Pursuant to PSCAA Regulation 6.03(a), which EPA has approved into the Washington SIP and codified at 40 C.F.R. § 52.2470(c), Respondent must file a Notice of Construction Application and receive an Order of Approval from PSCAA prior to the replacement or substantial alteration of control equipment.

82. Pursuant to PSCAA Regulation 6.01(a), PSCAA has adopted by reference Washington Administrative Code (WAC) Rule 173-400-113.

83. Pursuant to WAC 173-400-113(2), a proposed modification to a source must employ best available control technology BACT for all pollutants not previously emitted or whose emissions would increase as a result of the modification.

84. Pursuant to WAC 173-400-030(13), which is incorporated into the PSCAA portion of the Washington SIP at PSCAA Regulation 6.01(a) and 40 C.F.R. § 52.2470(c), BACT means an emission limitation based on the maximum degree of reduction for each air pollutant subject to regulation under chapter 70.94 RCW emitted from or which results from any new or modified stationary source, which the permitting authority, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes and available methods, systems, and techniques, including fuel cleaning, clean fuels, or treatment or innovative fuel combustion techniques for control of each such pollutant.

85. On information and belief, Respondent undertook the replacement an enclosed combustor at the Landfill on or around December 2022, which included the installation and startup of a higher-capacity combustor.

86. On information and belief, the replacement and installation of an enclosed combustor at Respondent's landfill increased the potential emissions of air pollutants regulated under the CAA—namely, *inter alia*, sulfur dioxide (SO₂).

87. By undertaking the replacement or substantial alteration of control equipment without first filing a Notice of Construction Application and receiving an Order of Approval—and without employing BACT—Respondent violated PSCAA Regulation 6.01(a), PSCAA Regulation 6.03(a), and 40 C.F.R. § 52.2470(c).

Violation 3: Failure to Operate an Adequate Active Collection System

88. Pursuant to 40 C.F.R. § 60.752(b)(2)(ii) and 40 C.F.R. § 62.16714(b)(1), the owner or operator of a landfill with a NMOC emission rate equal to or greater than 50 megagrams per year must, among other things, install a collection and control system that captures gases generated within the landfill.

89. Pursuant to 40 C.F.R. § 60.752(b)(2)(ii)(A)(1) and 40 C.F.R. § 62.16714(b)(2)(i), an active collection system used to meet the collection and control system requirements must be designed to handle the maximum expected gas flow rate from the entire area of the landfill that warrants control over the intended use period of the gas control or treatment system equipment.

90. Pursuant to 40 C.F.R. § 60.752(b)(2)(ii)(A)(3) and 40 C.F.R. § 62.16714(b)(2)(iii), the active collection system must collect gas at a sufficient extraction rate.

91. Pursuant to 40 C.F.R. § 60.759(c), Respondent must convey all landfill gas to a control system in compliance with 40 C.F.R. § 60.752(b)(2)(iii).

92. Pursuant to 40 C.F.R. § 62.16728(c), Respondent must convey all landfill gas to a control system in compliance with 40 C.F.R. § 62.16714(c).

93. In its 2010 design plan for the landfill, Respondent's modeled emissions estimates predicted that the maximum expected gas flow rate from the landfill would reach 4,749 CFM by 2011, and it would reach 9,276 CFM by 2022.

94. Respondent has not submitted a revised design plan or otherwise updated the emissions calculations included in the 2010 design plan and submitted those updated calculations for approval.

95. At all times prior to Respondent's modification to the gas collection system in or around November 2022, Respondent operated two enclosed flare control devices at the Landfill, with a combined control capacity of 4500 cubic feet per minute (CFM).

96. At all times prior to Respondent's modification to the gas collection system in or around November 2022, Respondent operated a gas control system blower with a maximum capacity of 7,000 CFM.

97. By failing to operate an active collection system capable of handling the maximum expected gas flow rate from the entire area of the landfill, Respondent violated 40 C.F.R. § 60.752(b)(2)(ii)(A), 40 C.F.R. § 60.759(c), 40 C.F.R. § 62.16714(b), and 40 C.F.R. § 62.16728(c).

Violation 4: Failure to Operate the Landfill Active Collection System at All Times

98. Pursuant to 40 C.F.R. § 60.752(b)(2)(ii)(A)(2) and 40 C.F.R. § 62.16714(b)(2)(ii), the owner or operator of a landfill must operate an active collection system that collects gas from each area, cell, or group of cells in the landfill in which the initial solid waste has been placed for a period of five years or more if active, or two years or more if closed or at final grade.

99. Pursuant to 40 C.F.R. § 60.752(b)(v), the collection and control system may be capped or removed provided that the requirements of 40 C.F.R. § 60.752(b)(v)(A) through (C)

are met, which includes the requirement that the landfill be closed as defined at 40 C.F.R. § 60.751.

100. Pursuant to 40 C.F.R. § 62.16714(f), the collection and control system may be capped or removed provided that the requirements of 40 C.F.R. § 62.16714(f)(1) through (4), which includes the requirement that the landfill be closed as defined at 40 C.F.R. § 62.16730.

101. Pursuant to 40 C.F.R. § 60.759(a)(3)(ii) and 40 C.F.R. § 62.16728(a)(3)(ii), the owner or operator may exclude nonproductive areas of the landfill from control, provided that the total of all excluded areas can be shown to contribute less than one percent of the total amount of NMOC emissions from the landfill.

102. At the time of the September 8, 2021 inspection, Respondent had disconnected the west and south slope of the landfill from the active collection system. Respondent reported that the active collection system would be disconnected for a period exceeding three months.

103. At the time of the May 2, 2022 inspection, Respondent was not operating gas collection in the northwest area of Cell 1 of the landfill.

104. Between January 1, 2021 and September 15, 2022, 7 of the 11 permanent vertical wells located in Cell 1 of the landfill were disconnected from the GCCS for at least 64 consecutive days with 4 of the wells disconnected for at least 212 consecutive days. Well E180 was disconnected for at least 320 consecutive days.

105. Between May 20, 2020 and August 25, 2022, 12 of the 16 permanent vertical wells located in Cell 2B of the landfill were disconnected from the GCCS for at least 57 consecutive days. Eight wells were disconnected for at least 124 days and 5 of those wells were disconnected between 208 days and 535 days, with an average of 300 days per well.

106. Between March 1, 2019 and March 31, 2020, 7 permanent vertical wells in Cell 4A were disconnected for between 52 days and 337 days, with an average of 210 days per well.

107. Between April 1, 2020 and July 30, 2021, 22 permanent vertical wells in Cell 4A were disconnected for an average of 209 days per well. Twelve wells were disconnected for 245 to 538 days with three wells disconnected indefinitely since 2021.

108. Between November 10, 2021 and February 24, 2022, Respondent reported 21 of 26 permanent vertical wells in Cell 4B were disconnected for between 60 and 106 consecutive days.

109. Between September 14, 2019 and December 7, 2020, Respondent reported 12 permanent vertical wells disconnected in Cell 4B. Total time disconnected for each of the 12 wells was greater than 90 days with an average of 325 days disconnected per well.

110. At all times relevant to this Notice of Violation, Respondent was not permitted to disconnect any portion of the active collection system pursuant to either 40 C.F.R. § 60.752(b)(v), 40 C.F.R. § 60.759(a)(3)(ii), 40 C.F.R. § 62.16714(f), or 40 C.F.R. § 62.16728(a)(3)(ii).

111. By failing to operate an active collection system that collects gas from each area, cell, or group of cells in the landfill, Respondent violated 40 C.F.R. § 60.752(b)(2)(ii)(A)(2) and 40 C.F.R. § 62.16714(b)(2)(ii).

Violation 5: Failure to Install and Operate Wells Consistent with the Design Plan

112. Pursuant to 40 C.F.R. § 60.755(b), the owner or operator of a landfill must place each well or design component according to the timeline specified in 40 C.F.R. § 60.755(b)(1) and (2).

113. Pursuant to 40 C.F.R. § 62.16720(b), the owner or operator of a landfill must place each well or design component according to the timeline specified in 40 C.F.R. § 62.16720(b)(1) and (2).

114. At all times relevant to this Notice of Violation, Respondent placed less than the number of active wells specified in the 2010 design plan at the landfill.

115. For example, Respondent placed approximately 50% of the number of wells specified in the 2010 design plan in Cell 1, 80% in Cell 2A, 68% in Cell 2B, 56% in Cell 3A, and 92% in Cell 4A.

116. By failing to place each well consistent with the 2010 design plan, Respondent violated 40 C.F.R. § 60.755(b)(1) and (2) and 40 C.F.R. § 62.16720(b).

Violation 6: Failure to Minimize Offsite Migration of Landfill Gas

117. Pursuant to 40 C.F.R. § 60.752(b)(2)(ii)(A)(4), Respondent must install a collection and control system designed to minimize off-site migration of subsurface gas.

118. Pursuant to 40 C.F.R. § 60.759(a)(2), Respondent must site active collection wells at a “sufficient density” throughout all gas producing areas such that, *inter alia*, the devices address landfill gas migration.

119. Pursuant to 40 C.F.R. § 60.751, “sufficient density” is defined to mean “any number, spacing, and combination of collection system components, including vertical wells, horizontal collectors, and surface collectors, necessary to maintain emission and migration control as determined by measures of performance set forth in this part.”

120. In its March 10, 2010 design plan, Respondent determined that the well spacing specifications proposed in the plan would be “sufficient in maintaining surface emissions and [landfill gas (LFG)] migration control below regulatory compliance levels.”

121. In its March 10, 2010 design plan, Respondent stated: “To evaluate the performance of the GCCS with respect to migration control, performance LFG monitoring probes are installed at the site to detect the presence of LFG. The GCCS and perimeter LFG monitoring probe monitoring data will be evaluated and the GCCS system adjusted in accordance with the NSPS requirements.”

122. Respondent has installed sixteen wells—labeled GP-1 through GP-16—outside the area of the landfill footprint, which Respondent monitors for LFG migration on a monthly basis.

123. According to Respondent’s monthly monitoring data for the period January 26, 2016 through November 3, 2021, Respondent has frequently detected high levels of methane at the perimeter monitoring wells.

124. For example, at GP-2, Respondent monitored methane at greater than 5 percent concentration for 54 out of 71 months.

125. At GP-10, Respondent monitored methane at greater than 5 percent concentration for 59 out of 71 months.

126. At GP-12, Respondent monitored methane at greater than 5 percent concentration for 59 out of 71 months.

127. At all perimeter wells for the period January 26, 2016 through November 3, 2021, Respondent monitored readings greater than 25 percent on 57 occasions.

128. Overall, Respondent has monitored repeated instances of methane concentrations greater than 5% at GP-1, GP-2, GP-10, GP-10p, GP-11, GP-12, GP-14, and GP-15.

129. According to Respondent's records and statements made during EPA's inspections, Respondent did not take corrective action based on the results of monitoring at perimeter wells.

130. For the reasons described above, Respondent failed to install a collection and control system designed to minimize off-site migration of subsurface gas, in violation of 40 C.F.R. § 60.752(b)(2)(ii)(A)(4).

131. For the reasons described above, Respondent failed to site active collection wells at a "sufficient density" throughout all gas producing areas such that, *inter alia*, the devices address landfill gas migration, in violation of 40 C.F.R. § 60.759(a)(2).

Violation 7: Failure to Manage Water in Landfill Vertical Wells

132. Pursuant to 40 C.F.R. § 60.759(b)(2) and 40 C.F.R. § 62.16728(b)(2), vertical wells used in a gas collection system must address the occurrence of water within the landfill.

133. According to records provided by Respondent, at least two vertical wells have been permanently abandoned at the landfill, and at least twenty-five vertical wells have been temporarily abandoned, due to "watering-in" conditions.

134. By failing to operate the vertical wells to address the occurrence of water in the landfill, Respondent violated 40 C.F.R. § 60.759(b)(2) and 40 C.F.R. § 62.16728(b)(2).

Violation 8: Failure to Adequately Manage Surface Methane Concentrations and Conduct Compliant Surface Emission Monitoring (SEM)

135. Pursuant to 40 C.F.R. § 60.753(d), owners and operators of MSW landfills with a GCCS used to comply with 40 C.F.R. § 60.752(b)(2)(ii) are required to operate the GCCS so that surface methane concentrations are less than 500 parts per million ("ppm") above background.

136. Pursuant to 40 C.F.R. § 62.16716(d), owners and operators of MSW landfills with a GCCS used to comply with 40 C.F.R. § 62.16714(b) and (c) are required to operate the GCCS

so that surface methane concentrations are less than 500 parts per million (“ppm”) above background.

137. To determine and demonstrate compliance with the surface methane concentration standard in 40 C.F.R. § 60.753(d) and 40 C.F.R. § 62.16716(d), 40 C.F.R. § 60.755(c) and 40 C.F.R. § 62.16720(c)(1) require owners and operators of MSW landfills to monitor surface methane concentrations "along a pattern that traverses the landfill at 30 meter intervals and where visual observations indicate elevated concentrations of landfills gas, such as distressed vegetation and cracks or seeps in the cover."

138. According to Respondent’s SEM quarterly reports, Respondent identified the following exceedances during SEM monitoring events:

| Date of Monitoring Event | Exceedances reported by Respondent (>500 ppm above background) | Exceedances identified by EPA during partial survey (>500 ppm above background) |
|---------------------------------|--|---|
| 10/14/15 | 0 | N/A |
| 1/18/16 | 0 | N/A |
| 4/4/16 | 0 | N/A |
| 7/5/16 | 8 | N/A |
| 10/10/16 | 0 | N/A |
| 2/2/17 | 0 | N/A |
| 5/23/17 | 6 | N/A |
| 9/11/17 | 0 | N/A |
| 10/12/17 | 0 | N/A |
| 2/14/18 | 14 | N/A |
| 5/29/18 & | 23 | N/A |
| 7/11/18 | 0 | N/A |
| 10/9/18 | 0 | N/A |
| 1/8/19 | 21 | N/A |
| 4/24/19 | 4 | N/A |
| 8/20/19 | 6 | N/A |
| 10/8/19 | 0 | N/A |
| 1/24/20 | 0 | N/A |
| 4/14/20 | 0 | N/A |
| 7/14/20 | 0 | N/A |
| 10/13/20 | 3 | N/A |
| Q1 2021 | Respondent reported “NA” | N/A |

| | | |
|---------|--------------|-----|
| Q2 2021 | Not reported | N/A |
| Q3 2021 | Not reported | N/A |
| 9/8/21 | N/A | 51 |
| 11/2/21 | 12 | N/A |
| 2/22/22 | 5 | N/A |
| 5/2/22 | N/A | 38 |

139. According to these reports, Respondent did not find any exceedances in thirteen out of twenty-five SEM surveys.

140. During the September 8, 2021 inspection, EPA inspectors conducting a partial survey of the landfill identified fifty-one points with readings in excess above 500 parts per million (ppm), many of which were representative of broad areas of exceedances. For example, EPA inspectors identified continuous exceedances along tarp edges, indicating that an exceedance would be detected along the entire edge of the tarp.

141. During the May 2, 2022 inspection, EPA inspectors conducting a partial survey of the landfill identified thirty-eight points with readings in excess of 500 ppm above background, many of which were representative of broad areas of exceedances. For example, EPA inspectors identified a tarp that was visibly billowing upward from the landfill surface due to escaping landfill gas; the inspectors measured continuous exceedances along the edges of, and from holes in, the tarp, indicating that exceedances would be detected at all edges and other egress points in the tarp.

142. The significant disparity between the number of exceedances reported by Respondent in its quarterly reports and the number of exceedances identified by EPA during the partial inspection monitoring events indicates that Respondent failed to operate the GCCS so that surface methane concentrations are less than 500 ppm above background in violation of 40

C.F.R. § 60.753(d) and 40 C.F.R. § 62.16716(d), and failed to properly conduct SEM monitoring in violation of 40 C.F.R. § 60.755(c) and 40 C.F.R. § 62.16720(c)(1).

Violation 9: Failure to Implement Cover Integrity Monitoring and Repair the Landfill Cover

143. Pursuant to 40 C.F.R. § 62.16720(c)(5), Respondent is required to implement a program to monitor for cover integrity and implement cover repairs as necessary on a monthly basis.

144. Cover integrity is necessary to minimize surface emissions of LFG and to ensure efficient extraction of gas through a landfill’s GCCS. LFG contains methane, carbon dioxide, and more than 100 different NMOC, which can have adverse effects on both public health and welfare at certain levels. 61 Fed. Reg. 9,905, 9,906 (March 12, 1996).

145. In its semi-annual reports submitted to EPA, Respondent almost exclusively reported “No issues observed” during monthly landfill cover monitoring events, including in at least the seven months immediately preceding EPA’s May 2, 2022 inspection. Respondent’s cover integrity reports are summarized below:

| | 2018 | 2019 | 2020 | 2021 | 2022 |
|--------------|--------------------|--|--|--|--------------------|
| Jan. | | Plastic cover on NE corner damaged by high wind event. Cover repaired. | Plastic cover on north side of Cell 4A above closure requires repair | Plastic cover on south and east of Cell 7 requires some repair | No Issues Observed |
| Feb. | | No Issues Observed | Plastic cover on north side of Cell4A repaired | Plastic cover on south and east of Cell 7e repair | No Issues Observed |
| Mar. | No Issues Observed | No Issues Observed | No Issues Observed | Semi-annual NSPS report covering the period of March 16, 2021, through September 15, 2021 not available. | No Issues Observed |
| April | No Issues Observed | No Issues Observed | No Issues Observed | | No Issues Observed |
| May | No Issues Observed | No Issues Observed | No Issues Observed | | No Issues Observed |
| June | No Issues Observed | No Issues Observed | No Issues Observed | | No Issues Observed |
| July | No Issues Observed | No Issues Observed | No Issues Observed | | No Issues Observed |

| | | | | | |
|-------------|--------------------|--------------------|--------------------|--------------------|--------------------|
| Aug. | No Issues Observed | No Issues Observed | No Issues Observed | | No Issues Observed |
| Sep. | No Issues Observed | No Issues Observed | No Issues Observed | | |
| Oct. | No Issues Observed | No Issues Observed | No Issues Observed | No Issues Observed | |
| Nov. | No Issues Observed | No Issues Observed | No Issues Observed | No Issues Observed | |
| Dec. | No Issues Observed | No Issues Observed | No Issues Observed | No Issues Observed | |

146. During EPA’s inspections at the Landfill on September 8, 2021 and May 2, 2022, EPA identified multiple areas of eroded or deficient landfill cover. For example, the inspectors identified the following:

- a. At least 250-foot area with exposed gravel in the southwest corner of the landfill;
- b. Multiple penetrations where past attempts at fixing landfill gas leaks with duct tape had failed;
- c. Multiple penetrations with open ends;
- d. Multiple emission points through holes in, or around the edges of, tarps that were being used as landfill cover;
- e. A tarp used as cover around the meeting of Cells 2B, 3A, 5, and 6 that was visibly billowing from landfill gas escaping the landfill and was not effectively containing gas emissions; and
- f. Multiple areas of leachate breakout on the surface of the landfill.

147. By failing to identify cover integrity issues at the landfill—as demonstrated through comparison of Respondent’s reports and EPA inspection observations—Respondent failed to comply with 40 C.F.R. § 62.16720(c)(5).

Violation 10: Failure to Operate the Collection System with Negative Pressure

148. Pursuant to 40 C.F.R. § 60.753(b) and 40 C.F.R. § 62.16716(b), Respondent must operate the collection system with negative pressure at each wellhead except in certain specified circumstances.

149. Based on well monitoring data provided by Respondent, EPA identified non-negative well pressures at WE-235 for 30 days in 2019; non-negative well pressures at TW-32 for 29 days in 2020; and, non-negative well pressures at WE-246 for 2 months between 2020 and 2021, in violation of 40 C.F.R. §§ 60.753(b) and 62.16716(b).

150. Based on well monitoring data provided by Respondent, for the period between January 1, 2021 and December 31, 2021, fifteen vertical wells show instances in which Respondent operated the wells with a non-negative pressure, in violation of 40 C.F.R. §§ 60.753(b) and 62.16716(b).

151. Based on well monitoring data provided by Respondent, during the period between January 1, 2022 and April 30, 2022, Respondent operated four vertical wells with a non-negative pressure, in violation of 40 C.F.R. §§ 60.753(b) and 62.16716(b).

Violation 11: Failure to Operate Each Interior Wellhead at Required Temperature

152. Pursuant to 40 C.F.R. § 60.753(c), Respondent must operate each interior wellhead in the collection system with a landfill gas temperature less than 55 degrees Celsius (131 degrees Fahrenheit) unless a higher operating temperature is approved by the Administrator.

153. According to well monitoring data, Respondent exceeded the maximum allowable temperature at four wells between October 26, 2018 and December 29, 2018. Well WE-117 showed readings over 131 F for two consecutive months, WE-235 showed readings over 170 F

for two consecutive months, and Wells WE-242 and WE-244 showed readings over 131 F for three consecutive months.

154. Respondent exceeded the maximum allowable temperature at four wells between January 1, 2019 and December 31, 2019. Well WE-117 showed readings over 131 F for twenty-two days, and WE-211 showed readings over 131 F for eight consecutive months and was not monitored between October 2, 2019 and January 7, 2020. Wells WE-235 and WE-242 showed readings over 131 F for ten consecutive months and were not monitored between October 2, 2019 and January 7, 2020

155. Respondent exceeded the maximum allowable temperature at two wells between January 1, 2020 and December 31, 2020. WE-211 showed readings over 131 F from January 8, 2020 to May 25, 2020, after which Respondent failed to monitor temperature. WE-235 showed readings over 131 F for seven consecutive months in 2020, after which Respondent failed to monitor temperature.

156. By failing to operate each interior wellhead in the collection system with a landfill gas temperature less than 55 degrees Celsius (131 degrees Fahrenheit), Respondent violated 40 C.F.R. § 60.753(c).

Violation 12: Failure to Operate Each Interior Wellhead at Required Oxygen Level

157. Pursuant to 40 C.F.R. § 60.753(c), Respondent must operate each interior wellhead in the collection system with either a nitrogen level less than 20 percent or an oxygen level less than 5 percent.

158. According to well monitoring data, Respondent exceeded the maximum allowable oxygen level at 17 vertical wells and 1 horizontal well in 32 separate one-month periods.

159. By failing to operate each interior wellhead in the collection system with either a nitrogen level less than 20 percent or an oxygen level less than 5 percent, Respondent violated 40 C.F.R. § 60.753(c).

Violation 13: Failure to Take Corrective Action at Wells

160. Pursuant to 40 C.F.R. § 60.753(g), if monitoring demonstrates that the operational requirements in 40 C.F.R. § 60.753, paragraphs (b), (c), or (d) are not met, Respondent must take corrective action as specified in 40 C.F.R. §§ 60.755(a)(3) through (5) or 60.755(c).

161. Pursuant to 40 C.F.R. § 62.16716(g), if monitoring demonstrates that the operational requirements in 40 C.F.R. § 62.16716, paragraphs (b), (c), or (d), are not met, respondent must take corrective action as specified in 40 C.F.R. §§ 62.16720(a)(3) and (5) or 62.16720(c).

162. Pursuant to 40 C.F.R. § 60.755(a)(3), if Respondent detects positive pressure at a well, Respondent must take action to correct the exceedance within 5 calendar days. If negative pressure cannot be achieved without excess air infiltration within 15 calendar days of the first measurement, Respondent must expand the gas collection system within 120 days of the initial measurement of positive pressure.

163. Pursuant to 40 C.F.R. § 62.16720(a)(3) and (4), if Respondent detects positive pressure or an exceedance of the operating parameter for temperature at a well, Respondent must take action according to the following schedule:

- a. Respondent must initiate action to correct the exceedance within 5 days.
- b. If negative pressure cannot be achieved without excess air infiltration within 15 calendar days of the first measurement, Respondent must conduct a root

cause analysis and correct the exceedance as soon as practicable, but not later than 60 days after the first positive pressure measurement.

- c. If corrective actions cannot be implemented within 60 days, Respondent must also conduct a corrective action analysis and develop an implementation schedule to complete the corrective action(s) as soon as practicable, but no more than 120 days following the initial measurement of positive pressure.
- d. If corrective action is expected to take longer than 120 days, Respondent must submit the root cause analysis, corrective action analysis, and corresponding implementation timeline to the Administrator.

164. Pursuant to 40 C.F.R. § 60.755(a)(5), if a well exceeds the temperature level or the nitrogen or oxygen levels provided in 40 C.F.R. § 60.753(c), Respondent must take action to correct the exceedance within 5 calendar days. If correction of the exceedance cannot be achieved within 15 calendar days of the first measurement, Respondent must expand the gas collection system within 120 days of the initial exceedance.

165. For each of the operating parameter exceedances identified in Violations 10 through 12, Respondent's remedy to the exceedances was to close the wells, which is not an available corrective action option under either 40 C.F.R. § 60.755(a)(3) and 40 C.F.R. § 62.16720(a)(3) and (4). Therefore, Respondent failed to take the corrective actions specified in 40 C.F.R. Part 60, Subpart WWW, and 40 C.F.R. Part 62, Subpart OOO, in violation of 40 C.F.R. §§ 60.755(a) and 62.16720(a).

Violations 14 Through 16: Failure to Conduct Monthly Well Monitoring

166. Pursuant to 40 C.F.R. § 60.756(a)(1), Respondent must install a sampling port and a thermometer, other temperature device, or an access port for temperature measurements, at each wellhead, and measure the gauge pressure in the collection header on a monthly basis.

167. Pursuant to 40 C.F.R. § 60.756(a)(2), Respondent must install a sampling port and a thermometer, other temperature device, or an access port for temperature measurements, at each wellhead, and measure the nitrogen or oxygen concentration in the landfill gas on a monthly basis.

168. Pursuant to 40 C.F.R. § 60.756(a)(3), Respondent must install a sampling port and a thermometer, other temperature device, or an access port for temperature measurements, at each wellhead, and monitor the temperature of the landfill gas on a monthly basis.

169. EPA reviewed monthly well monitoring reports for 96 wells for the period January 2018 to April 2022 and identified numerous instances where Respondent failed to conduct required monitoring at landfill wells during one or more month.

170. For example, Respondent monitored 50 of 74 wells in August 2020, 45 of 73 wells in December 2020, and 42 of 86 wells in December 2021 .

171. During no month between January 2018 and April 2022 did Respondent monitor all wells operating during each respective period.

172. For each instance where Respondent failed to conduct monitoring at a landfill well, Respondent violated the requirements to monitor gauge pressure, monitor oxygen or nitrogen, and monitor temperature, as required by 40 C.F.R. § 60.756(a)(1) through (3).

Violation 17: Failure to Route all Collected Gas to a Control System

173. Pursuant to 40 C.F.R. § 60.752(b)(2)(iii), Respondent must route all gas collected by the active collection system to a control system that complies with 40 C.F.R. § 60.752(b)(2)(iii)(A), (B), or (C).

174. Pursuant to 40 C.F.R. § 60.752(b)(2)(iv), Respondent must operate the collection and control device in accordance with 40 C.F.R. §§ 60.753, 60.755, and 60.756.

175. Pursuant to 40 C.F.R. § 60.755(e), the requirements of 40 C.F.R. Part 60, Subpart WWW, including the requirement to route all gas to a treatment or control device, applies at all times, except during periods of start-up, shutdown, or malfunction (SSM), provided that the duration of start-up, shutdown, or malfunction shall not exceed one hour for treatment or control devices.

176. Pursuant to 40 C.F.R. § 62.16716(e), Respondent must ensure that all collected gases are vented to a control system that complies with 40 C.F.R. § 62.16714(c).

177. Between April 1, 2018 and December 31, 2018, Respondent reported 61 malfunction events at the control devices lasting more than one hour, with a total of 2126 hours of downtime in the period.

178. Between January 1, 2019 and December 31, 2019, Respondent reported 93 malfunction events at the control devices lasting more than one hour, with a total of 1486 hours of downtime in the period.

179. Between January 1, 2020 and December 31, 2020, Respondent reported 241 malfunction events at the control devices lasting more than one hour, with a total of 3206 hours of downtime in the period.

180. Between January 1, 2021 and December 31, 2021, Respondent reported 188 malfunction events at Flare 1 lasting more than one hour, with a total of 1,828 hours of downtime in the period.

181. Between January 1, 2021 and December 31, 2021, Respondent reported 159 malfunction events at Flare 2 lasting more than one hour, with a total of 1,630 hours of downtime in the period.

182. Between January 1, 2022 and September 15, 2022, Respondent reported nine malfunction events at both flares lasting more than one hour, with a total of 44.3 hours of downtime in the period.

183. By failing to ensure that control devices were consistently maintained and operational between April 1, 2018 and September 15, 2022, Respondent violated 40 C.F.R. §§ 60.752(b)(2), 60.755(e), and 62.16714(c).

Violation 18: Failure to Comply with Good Air Pollution Control Practices

184. Pursuant to 40 C.F.R. § 60.11(d), Respondent was required, to the extent practicable, to maintain and operate the Landfill in a manner consistent with good air pollution control practices for minimizing emissions.

185. Pursuant to 40 C.F.R. § 63.6(e)(1), Respondent was required, to the extent practicable, to maintain and operate the Landfill in a manner consistent with safety and good air pollution control practices for minimizing emissions.

186. Respondent did not maintain all wells to address the presence of water, which led to inadequate operation of the GCCS.

187. Respondent did not maintain and operate the Landfill such that the surface methane concentrations were below 500 ppm.

188. Respondent did not maintain the Landfill cover to the extent practicable to collect and control LFG.

189. Respondent did not operate a GCCS designed to handle the maximum expected gas flow rate from the entire area of the landfill.

190. Respondent did not operate and maintain control equipment—including flares and wells—so as to minimize downtime caused by malfunction.

191. For at least the last five years, Respondent failed to operate and maintain, to the extent practicable, the landfill in a manner consistent with good air pollution control practices for minimizing emissions in violation of 40 C.F.R. §§ 60.11(d) and 63.6(e)(1).

192. Respondent did not maintain and operate the Landfill such that the surface methane concentrations were below the lower explosive limit for methane, which violated the requirement to operate and maintain the facility in a manner consistent with safety under 40 C.F.R. § 63.6(e)(1).

Violation 19: Failure to Accurately Report Total Waste Accepted

193. Pursuant to 40 C.F.R. § 98.463(a)(2), Respondent must calculate waste stream quantities for waste accepted at the landfill on an annual basis pursuant to one of the four methods listed in 40 C.F.R. § 98.463(a)(2)(i)(A) through (D).

194. In its reports for calendar years 2018 through 2021, Respondent opted to calculate waste stream quantities using the method in 40 C.F.R. § 98.463(a)(2)(i)(D), which requires Respondent to multiply the number of loads (*e.g.*, trucks) by the mass of waste per load based on the working capacity of the container or vehicle.

195. Respondent also submits waste characterization reports on an annual basis to the Tacoma Pierce County Health Department.

196. In its report to Tacoma Pierce County Health Department for calendar year 2018, Respondent reported accepting 1,054,754 metric tons of waste, whereas Respondent reported accepting 1,053,420 metric tons of waste in reports submitted to EPA for the same year pursuant to 40 C.F.R. Part 98, Subpart HH—a difference of 1,334 metric tons.

197. In its report to Tacoma Pierce County Health Department for calendar year 2019, Respondent reported accepting 1,139,478 metric tons of waste, whereas Respondent reported accepting 1,137,341 metric tons of waste in reports submitted to EPA for the same year pursuant to 40 C.F.R. Part 98, Subpart HH—a difference of 2,138 metric tons.

198. In its report to Tacoma Pierce County Health Department for calendar year 2020, Respondent reported accepting 1,184,604 metric tons of waste, whereas Respondent reported accepting 1,184,595 metric tons of waste in reports submitted to EPA for the same year pursuant to 40 C.F.R. Part 98, Subpart HH—a difference of 9 metric tons.

199. In its report to Tacoma Pierce County Health Department for calendar year 2021, Respondent reported accepting 1,168,288 metric tons of waste, whereas Respondent reported accepting 1,014,006.83 metric tons of waste in reports submitted to EPA for the same year pursuant to 40 C.F.R. Part 98, Subpart HH—a difference of 154,281.17 metric tons.

200. By failing to accurately report total waste accepted for calendar years 2018 through 2021, Respondent violated 40 C.F.R. § 98.8, 40 C.F.R. § 98.463(a)(2), and CAA Section 114, 42 U.S.C. § 7414.

Violation 20: Failure to Accurately Report GHG Emissions

201. Pursuant to 40 C.F.R. §§ 98.340(a) and 98.341, Respondent 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 CO₂ equivalent.

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

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

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

204. Pursuant to 40 C.F.R. § 98.343(a)(2), Respondent must calculate methane emissions based on the waste composition values provided in 40 C.F.R. Part 98, Table HH-1,

205. Pursuant to 40 C.F.R. § 98.3743(a)(2), if waste composition data are not available, Respondent may calculate methane emissions using one of the two alternative methods provided in 40 C.F.R. Part 98, Table HH-1.

206. In Respondent's reports submitted to the Tacoma Pierce County Health Department for calendar years 2018 through 2021, Respondent reported amounts and type of waste disposed at the Landfill by waste composition type, including *inter alia* "Municipal/Commercial Solid Waste," "Construction/Demolition Waste," "Yard Waste," and "Other (specify): Saw Dust."

207. In Respondent's reports submitted to EPA for calendar years 2010 through 2021, Respondent did not provide the same waste composition type data submitted in its Tacoma Pierce County Health Department reports, instead reporting waste as either "inerts" or "bulk waste."

208. By calculating methane emissions using waste composition types from two distinctive options (*e.g.*, “DOC (bulk waste)” from the bulk waste option, and “inerts” from the modified bulk MSW option), Respondent violated 40 C.F.R. § 98.8, 40 C.F.R. § 98.343(a)(2), and CAA Section 114, 42 U.S.C. § 7414. *See* 75 Fed. Reg. 66,434, 66,449-66,450 (Oct. 28, 2010).

IV. ENFORCEMENT

209. 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).

210. 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.

211. Section 167 of the Act, 42 U.S.C. § 7477, authorizes the Administrator to initiate an action for injunctive relief, as necessary to prevent the construction, modification or operation of a major emitting facility which does not conform to the PSD requirements in CAA Part C.

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

Issued this ____ day of _____, 2023.

**MORGAN
JENCIUS**

Digitally signed by
MORGAN JENCIUS
Date: 2023.03.01
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Morgan Jencius, Chief
Air and Land Enforcement Branch