



RULE-MAKING ORDER

CR-103P (May 2009)
(Implements RCW 34.05.360)

Agency: Department of Ecology AO # 10-06

Permanent Rule Only

Effective date of rule:

Permanent Rules

31 days after filing.

Other (specify) _____ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

Yes No If Yes, explain:

Purpose: This rule making amends Chapter 173-350 WAC Solid Waste Handling Standards. The amendments pertain to composting and digestion of organic wastes. Key changes will:

- Improve environmental performance of large scale composters by adding requirements that include but are not limited to:
 - Requiring facilities to plan for response to odor complaints,
 - Addressing facility capacity and throughput,
 - Requiring training for facility personnel,
 - Requiring representative sampling,
 - Addressing site management in product storage areas, and
 - Requiring facilities to address the control of agricultural pests;
- Help protect long term markets for compost products by improving compost quality;
- Allow for new, innovative methods of handling organic materials, including permit exemptions;
- Encourage development of small facilities through expansion of conditional permit exemptions;
- Adopt permit exemptions for qualified anaerobic digesters as required by Chapter 70.95 RCW; and
- Describe permit requirements for non-exempt digesters.

Reasons supporting proposal: See Attachment A

Citation of existing rules affected by this order:

Repealed:
Amended: WAC 173-350-020, WAC173-350-030, WAC 173-350-100, WAC 173-350-220
Suspended:

Statutory authority for adoption: RCW 70.95.020(3), 70.95.060(1), 70.95.260(6), 70.95.305, 70.95.330

Other authority :

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 12-19-087 on September 18, 2012
Describe any changes other than editing from proposed to adopted version:
See Attachment B

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

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Date adopted: 3/25/13

NAME (TYPE OR PRINT)

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Director, Department of Ecology

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: March 25, 2013

TIME: 1:49 PM

WSR 13-08-016

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Federal rules or standards:	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
Recently enacted state statutes:	New	<u>1</u>	Amended	<u>0</u>	Repealed	<u>0</u>

The number of sections adopted at the request of a nongovernmental entity:

	New	0	Amended	<u>1</u>	Repealed	_____
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The number of sections adopted in the agency's own initiative:

	New	<u>1</u>	Amended	<u>4</u>	Repealed	<u>0</u>
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

	New	<u>2</u>	Amended	<u>4</u>	Repealed	_____
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	<u>2</u>	Amended	<u>4</u>	Repealed	_____

ATTACHMENT A - Reasons supporting proposal

The Department of Ecology fully supports processing and treating organic materials to produce valuable end products through means such as composting and anaerobic/aerobic digestion, and recognizes the potential for other new conversion technologies for processing organic materials. These processes preserve valuable nutrient value and organic matter that can be used in lawns and gardens, or returned to our soils to enhance them for crop production, or aid in restoration projects for habitat protection and wildlife enhancement. Gas generated during anaerobic digestion can be used to generate electricity for local use, or returned to the power grid. At the same time, these management approaches reduce the amount of organic materials disposed in landfills or burned.

Growing pressure within the solid waste management system to process more diverse feedstocks in ever larger quantities has strained the capacity of the solid waste management system. In some cases it has distressed neighbors and impaired marketability of final products. Ecology is directed by statute to provide permit exemptions for qualified anaerobic digesters. The agency further believes that additional conditional permit exemptions for small digesters and compost facilities will help grow necessary infrastructure for handling increasing volumes of organic wastes by providing relief from administrative burdens, while continuing to require protection of the environment as a condition of exemption. The agency believes that a new requirement for odor management plans at larger compost facilities, expanded requirements at those same facilities to improve operational management where finished product is stored, as well as other new requirements such as defining capacity and throughput, ensuring proper training, and requiring representative sampling are necessary to protect public health and the environment. The agency believes tighter standards for physical contaminants are necessary to protect the environment and to ensure viable compost markets in the long term. The amendments to the rule are intended as steps to repair the observed problems while preserving the long term integrity of critical solid waste management system elements.

ATTACHMENT B - *Changes other than editing from proposed to adopted version*

350-030(2)(a)(i). The effective date for operating, environmental monitoring, closure and post-closure planning, and financial assurance requirements was changed from within 12 months of the effective date of the rule, to by June 30, 2014.

350-030(2)(a)(ii). The effective date for performance and design requirements was changed from within 18 months of the effective date, to by December 31, 2014.

350-020(2)(c). Language was added to clarify that a permit modification is required only, "If, as determined by the jurisdictional health department, significant changes to the operation, design, capacity, performance, or monitoring of a facility are needed to meet updated or new sections of this chapter," and the date to *initiate* that process was changed from within 12 months of the effective date to by December 31, 2013.

350-030-100. The definition of anaerobic digester was changed. The reference to an enclosed container was deleted and the definition now refers to a "vessel."

350-030-100. The word "clean" was deleted from clean wood waste as a type of bulking agent; the definition now refers wood waste.

350-030-100. The definition of capacity was revised to specify the maximum amount of material that can be contained "on-site at any one time," and to include "bulking" agents.

350-030-100. The definition of organic feedstocks was changed to include bulking agents, and the word "waste" was deleted so that the reference is now to organic materials instead of waste organic materials.

350-030-100. The definition of organic materials was revised and the reference to "animal manure" was deleted.

350-030-100. A definition for "Other conversion technologies" was added: "Other conversion technologies" means processes that transform organic feedstocks into useable or marketable materials, but does not include composting, vermicomposting, or anaerobic digestion.

350-030-100. Rocks were deleted from the definition of physical contaminant.

350-030-100. A definition for "specified risk material" was added.

350-030-100. The definition of throughput was clarified by referring to "incoming" feedstocks.

350-030-100. A restriction stating that yard debris does not include sod was deleted.

359-220(1)(a). Applicability was revised to refer only to facilities; the words "or sites" were deleted.

350-220(1)(a)(i). In the exclusion from applicability, the reference to "including composting or recycling" was deleted.

350-220(1)(a)(v). The word "managed" was substituted for "permitted" and all new following language regarding biosolids was deleted from 220(1)(a)(v)(A), (B) and (C).

350-220(1)(b) Table 220-A. Revisions for overall consistency with similar Table 225-A.

350-220(1)(b) Table 220-A (1). A new conditional exemption was added for composting facilities with no more than 5,000 gallons or 25 cubic yards of material on-site at any one time without notification or reporting requirements.

350-220(1)(b) Table 220-A (2), (3), (4) and (5). Lower threshold for exemption was changed to reflect the 25 yard limit of new (1). The types of organic feedstocks in column 1 were expanded and clarified, the allowable volumes for exemptions were increased in column 2 and requirements specific to each exemption were clarified in column 3. The requirement for composting to take place in a vessel was removed from column 3. A permit exemption was added for zoo composting programs.

350-220(1)(c)(v). A requirement to use at least 50% of material on site each year, and 100% of the material every three years was deleted.

350-220(1)(c)(vi). The annual report requirement was moved from the body of the rule into Table 220-A, and the detail regarding content was deleted since it is specified by the department on the form.

350-220(3)(b). Clarification was added that only engineering design and other engineering documents must be prepared by a professional engineer.

350-220(3)(b)(ii). Traffic patterns was added to the details of required drawings.

350-220(3)(e)(i). Storage was added where leachate is collected from feedstock "storage" and preparation areas.

350-220(4)(a)(vii)(B). The words "such as a synthetic material or a layer of finished compost" were added to clarify what was meant in reference to a cover.

350-220(4)(a)(x) Table 220-B. Total nitrogen, electrical conductivity, carbon to nitrogen ratio, moisture at 70C and organic matter were deleted as analytes for finished product. The limit on film plastic was increased from < 0.1% to ≤0.25%. A footnote regarding film plastic was inserted, referencing restrictions on material with more than .1% film plastic (see WAC 173-350-220(4)(f)(iii)(D)(I)).

350-220(4)(f)(ii)(A). The reference to a "plan" was replaced with a description of how staff will document and respond to nuisance odor complaints should they arise, and a requirement to summarize actions taken was added.

350-220(4)(f)(ii)(B). The reference to a progressive odor management plan and possible facility improvements that could be made was replaced with a description of facility and operational features to prevent nuisance odors beyond the facility's property boundary. The 18 month allowance to complete the progressive odor management plan was deleted.

350-220(4)(f)(iii)(D)(I) and (II). A requirement to provide a label or information sheet for compost with film plastic above .1% and up to .25% by weight was added. The statement stipulates excess film plastic and places limitations on use. Refer also to amended Table 220-A. Revised language to allow for removal of film plastic from the site as an option.

350-220(4)(f)(iii)(F). Language requiring mass balance calculations related to material mixing and decomposition was replaced with a requirement for discussion and basic calculations.

350-220(9). A requirement was added for the jurisdictional health department to make a determination on construction records within 30 days.

350-220(10). Revised the text to make it clearer that compost that does not meet standards when it is distributed off site or used on site is a solid waste.

350-225 Table 225-A. Revisions for overall consistency with similar Table 220-A.

350-225 Table 225-A (1). A new conditional exemption was added for facilities with no more than 5,000 gallons or 25 cubic yards of material on-site at any one time without notification, reporting, or testing requirements.

350-225 Table 225-A (2), (3) and (4). The lower threshold for exemption was changed to reflect the 25 yard limit of new (1). The types of organic feedstocks in column 1 were expanded and clarified, the allowable volumes for exemptions were increased in column 2 and requirements specific to each exemption were clarified in column 3. Items (2) and (3) were revised to clarify that exemption applies to vermicomposting only.

350-225(2)(b). A requirement was added to allow inspections by the department and/or jurisdictional health department at reasonable times.

350-250(1). The word "sites" was deleted so the reference on applicability is only to facilities.

350-250 (2)(a). A citation to a statutory enforcement provision was inserted: "Violations of the terms and conditions of Table 220-A and (b) of this subsection may be subject to the penalty provisions of RCW 70.95.315."

350-250 Table 250-A. Table 250A was revised to be more consistent with other tables 220A and 225A. Moved definition of specified risk material to definitions in Section 100. The allowance for application of digestate to sites under a farm management plan in (3)(e) and (f) was deleted (application to sites with a Dairy Nutrient Management Plan was retained).

350-250(2)(b)(i). Alternative language requiring compliance with the performance standards of WAC 173-350-040 was inserted.

350-250(2)(b)(v). Regarding capacity and notification was deleted to achieve consistency with revised Table 250-A.