

Existing Agricultural Activity Exemption

RCW 70.94.030

Definitions.

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Air contaminant" means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substance, or any combination thereof.

(2) "Air pollution" is presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as is, or is likely to be, injurious to human health, plant or animal life, or property, or which unreasonably interfere with enjoyment of life and property. For the purpose of this chapter, air pollution shall not include air contaminants emitted in compliance with chapter 17.21 RCW or

RCW 70.94.640

Odors or fugitive dust caused by agricultural activities consistent with good agricultural practices exempt from chapter.

(1) Odors or fugitive dust caused by agricultural activity consistent with good agricultural practices on agricultural land are exempt from the requirements of this chapter unless they have a substantial adverse effect on public health. In determining whether agricultural activity is consistent with good agricultural practices, the department of ecology or board of any authority shall consult with a recognized third-party expert in the activity prior to issuing any notice of violation.

(2) Any notice of violation issued under this chapter pertaining to odors or fugitive dust caused by agricultural activity shall include a statement as to why the activity is inconsistent with good agricultural practices, or a statement that the odors or fugitive dust have substantial adverse effect on public health.

(3) In any appeal to the pollution control hearings board or any judicial appeal, the agency issuing a final order pertaining to odors or fugitive dust caused by agricultural activity shall prove the activity is inconsistent with good agricultural practices or that the odors or fugitive dust have a substantial adverse impact on public health.

(4) If a person engaged in agricultural activity on a contiguous piece of agricultural land sells or has sold a portion of that land for residential purposes, the exemption of this section shall not apply.

(5) As used in this section:

(a) "Agricultural activity" means the growing, raising, or production of horticultural or viticultural crops, berries, poultry, livestock, shellfish, grain, mint, hay, and dairy products.

(b) "Good agricultural practices" means economically feasible practices which are customary among or appropriate to farms and ranches of a similar nature in the local area.

(c) "Agricultural land" means at least five acres of land devoted primarily to the commercial production of livestock, agricultural commodities, or cultured aquatic products.

(d) "Fugitive dust" means a particulate emission made airborne by human activity, forces of wind, or both, and which do not pass through a stack, chimney, vent, or other functionally equivalent opening.

(6) The exemption for fugitive dust provided in subsection (1) of this section does not apply to facilities subject to RCW 70.94.151 as specified in WAC 173-400-100 as of July 24, 2005, 70.94.152 , or 70.94.161.

Notes:

Legislative finding, intent -- 1981 c 297: "The legislature finds that agricultural land is essential to providing citizens with food and fiber and to insuring aesthetic values through the preservation of open spaces in our state. The legislature further finds that government regulations can cause agricultural land to be converted to nonagricultural uses. The legislature intends that agricultural activity consistent with good practices be protected from government over-regulation."
[1981 c 297 § 29.]

Proposed Composting Activity Exemption

RCW 70.94.641

Odors or fugitive dust caused by composting activities consistent with good composting practices exempt from chapter.

- (1) Odors or fugitive dust caused by composting activity consistent with good composting practices at a compost facility permitted under Chapter 70.95 RCW are exempt from the requirements of this chapter unless they have a substantial adverse effect on public health. In determining whether composting activity is consistent with good composting practices, the department of ecology or board of any authority shall consider whether the operation of the facility is in substantial compliance with the solid waste handling standards under WAC 173-350-220. The department of ecology or board of any authority may consult with a recognized third-party expert in the activity prior to issuing any notice of violation.
- (2) Odors or fugitive dust caused by composted materials created by a process that is consistent with good composting practices at a compost facility permitted under Chapter 70.95 RCW are exempt from the requirements of this chapter unless they have a substantial adverse effect on public health. In determining whether the composting activity is consistent with good composting practices, the department of ecology or board of any authority shall consider whether the operation of the facility is in substantial compliance with the solid waste handling standards under WAC 173-350-220, including the limits for metals and other parameters. The department of ecology or board of any authority may consult with a recognized third-party expert in the activity prior to issuing any notice of violation.
- (3) Any notice of violation issued under this chapter pertaining to odors or fugitive dust caused by composting activity or composted material shall include a statement as to why the activity is inconsistent with good composting practices, or a statement that the odors or fugitive dust have substantial adverse effect on public health.
- (4) In any appeal to the pollution control hearings board or any judicial appeal, the agency issuing a final order pertaining to odors or fugitive dust caused by composting activity or composted material shall prove the activity is inconsistent with good composting practices or that the odors or fugitive dust have a substantial adverse impact on public health.
- (5) If a person engaged in composting activity on a contiguous piece of land sells or has sold a portion of that land for residential purposes, the exemption of this section shall not apply.
- (6) As used in this section:
 - (a) "Aerobic decomposition" means a process whereby oxygen levels in the organic solid waste are documented by sampling once per week to be above eight percent oxygen at the core of any and all active composting processes.
 - (b) "Composting activity" means the process of subjecting organic solid waste to biological degradation and transformation under controlled conditions designed to promote aerobic decomposition. The degradation process must be actively managed and monitored at a facility that is in compliance with the requirements of Chapter 70.95. Natural decay of organic solid waste under uncontrolled conditions does not constitute composting activity.
 - (c) "Composted material" means organic material that has been transformed at a facility permitted under RCW 70.95, such that the resulting material meets the limits for metals and other parameters established in WAC 173-350-220(4)(viii)(A) and (B).
 - (d) "Fugitive dust" means a particulate emission made airborne by human activity, forces of wind, or both, and which do not pass through a stack, chimney, vent, or other functionally equivalent opening.