Navigating Complex Solid Waste Issues in Yakima County

2026 WSEHA/WSPHA Joint Conference

Environmental Health Divison

Yakima Health District



Speakers



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Agenda

- Introductions
- Yakima Health District Background
- Post-Covid Facility Review
- Side Note - Fires!
- Case Study - LPL Permit Denial
  - Attempts at Voluntary Compliance
  - Permit Denial
  - Health Officer Hearing
  - Pollution Control Hearings Board
  - House Bill 1154
- Questions?



Yakima County



- Population: 256,728 residents (2020 census)
- 4,294.5 square miles: 2nd largest county in WA
- Semi-dry arid climate, ~300 days of sunshine per year
- Cities/Towns: Yakima, Sunnyside, Grandview, Toppenish, Selah, Union Gap, Moxee, Wapato, Granger, Zillah, Mabton, Tieton, Naches, Harrah

EH Divison/Solid Waste Program

Environmental Health

- Director, Deputy Director, Program Coordinator, 9 Environmental Health Specialists, 1 Permit Specialist, 1 Permit Technician
- Generalist Model: Staff are cross-trained to perform work across all programs
    - Food Safety, On-site Septic, Drinking Water, Solid Waste, Water Recreation/Camps, Rabies Investigation
- Special Projects
    - West Nile Virus Surveillance
    - Hazardous Algal Bloom Response
    - PFAS/Nitrate in Groundwater Response

Solid Waste Program

- 16 monitored Solid Waste Facilities
    - Municipal Solid Waste Landfills
    - Limited Purpose Landfills
    - Transfer Stations
    - Moderate Risk Waste Facility
    - Composting Operation
    - Material Recovery Facility
    - Piles Used for Storage or Treatment
- Quarterly inspection schedule
- Program Technical Lead facilitates permit issuance, completing/assigning inspections, and conducting enforcement with leadership

Post-Covid Facility Review



- In partnership with Washington State Department of Ecology
- Focused on reviewing Limited Purpose and Municipal Solid Waste Landfills
- Goal was to identify remaining defeciencies or updates needed
  - Plans of Operation
  - Grounwater Monitoring Networks
  - Engineering Reports
  - Gas Control
- **Results: Multiple facilities out of compliance with documentation and/or environmental controls**

Side Note - Fires!



- Two landfill fires triggered over 2022-2023 winter
- One facility with exposed surface fire and flames requiring emergency response from YHD/ECY/YRCAA
  - Landfill fire consultant hired for mitigation and remediation
  - YHD suspended permit due to inability to operate safely
- One facility with contained subsurface fire
  - Landfill fire consultant hired for mitigation and remediation
  - Entered MTCA to address emissions
  - Still burning today 50+ feet below surface

Side Note - Fires!







Side Note - Fires!





Side Note - Fires!



Alarming Data: Landfill Gas Detections vs NIOSH IDLH Levels

Contaminant	Detection	NIOSH IDLH Level
Carbon Monoxide	10,000+ ppm	1,200 ppm
Temperature	500+ F	N/A
Hydrogen Sulfide	99.9+ ppm	100 ppm
Volatile Organic Compounds/Benzene (VOCs)	999+ ppm	500 ppm

NIOSH: National Institute for Occupational Safety and Health. IDLH: Immediately Dangerous to Life or Health. Units: ppm - parts per million; F - degrees Fahrenheit.

- Data measured with 5-gas MultiRAE Photoionization Detector
- IDLH levels represent ~30 minute exposure window
- Contributing Factors
  - Oversteepened Slopes
  - Inadequate Cover
  - Inadequate Compaction
  - Oxygen Intrusion

Reference: https://www.cdc.gov/niosh/npg/default.html

Facility Review Results

- Post-Covid Facility Reviews were met with varied proactiveness and push back
- Ongoing compliance projects required multi-agency coordination meetings with the facilities and YHD, Ecology, Local Air Agency, and Local Planning Agency
- Significant projects for facilities:
  - Plan of Operation updates (15-20 years old)
  - Groundwater Monitoring Network expansions and Sampling and Analysis Plan updates
  - Gas Collection and Control System expansions
  - Liner installation
  - Permit compliance verification for land use and air emissions
  - Dont forget about the Fires!

Overall Objective → **Voluntary Compliance**



Case Study - Permit Denial

Caton Landfill - Selah, WA

- Operated as an Intert Demolition Landfill from 1997-2008
- Chose to redesignate as a Limited Purpose Landfill when regulations updated in 2008
- Facility Review revealed significant noncompliance with WAC 173-350 & other agency requirements:
  - **15 year old Plan of Operation** - Lacked significant detail for waste screening, dust control, health & safety
  - **Engineering Report & Fill Plan** - Lacked significant detail and was not followed as approved in 2008
  - **Groundwater Monitoring Network** - 2 compliance wells & 1 Group B water system included
  - **YRCAA Clean Air Permit** - Was not followed and exceeded waste acceptance limit in 2020 by ~40%, 2021 by ~150%, and 2022 by ~800%
    - Failed to modify when redesignated in 2008
  - **Land Use** - Expanded past approved landfill boundary by local Planning Department
  - **Financial Assurance** - Could not calculate due to not following engineering report, expansion past landfill boundary, and resistance to survey

Case Study - Permit Denial



- **Attempted voluntary compliance from March 2022-June 2023**
  - Technical letters provided by YHD and Ecology
  - Several in-person meetings to collaborate - unproductive and contentious
    - YHD, Ecology, YRCAA, Planning Department all available
  - Refusal to hire third-party consultant
  - Multiple site visits throughout for inspections
  - Two month extension allowed April-June 2023
- Voluntary compliance became unsuccessful as none of the compliance items had been adequately addressed in over a year of outreach
- Landfill fire emergency November 2022-March 2023
- **YHD, with Ecology, denied the solid waste handling permit renewal on June 27, 2023**

Case Study - Permit Denial



- **Caton Landfill appealed the permit denial and requested a Health Officer Hearing as allowed under WAC 173-350-710 (7)(b)(i)**
- WAC 173-350-710 (7)(c)
  - “If the jurisdictional health department denies a permit renewal or suspends a permit for an **operating waste recycling facility** that receives waste from more than one city or county, and the applicant or holder of the permit requests a hearing or files an appeal under this section, the permit denial or suspension will not be effective until the completion of the appeal process under this section, unless the jurisdictional health department declares that continued operation of the waste recycling facility poses a very probable threat to human health or the environment.”
- YHD, with Ecology, determined the landfill is not a “waste recycling faciliy” and stay does not apply - WAC does not define
- **Caton Landfill continued to operate from July 2023-April 2025 without a valid permit**

Case Study - Permit Denial

Yakima Health District Health Officer Hearing WAC 173-350-710 (7)(b)(i)

- **YHD was required to hold an appeal hearing upon request, and within 30 days of the request, with the Health Officer as the Hearing Examiner**
  - Unprecedented for YHD and seemingly statewide
  - Caton Landfill and YHD represented by legal counsel
- Process:
  - Appellant and respondent each described their case
  - Appellant had chance to rebut respondent's case
  - Health Officer opened up comment for Subject Matter Experts from partner agencies
    - Ecology provided statement defending denial
- **Health Officer upheld the permit denial issued by YHD staff**
- **Caton Landfill appealed the Health Officer Decision to the Pollution Control Hearings Board (PCHB) as allowed under WAC 173-350-710 (7)(b)(iii)**



Case Study - Permit Denial

Yakima Health District Health Officer Hearing WAC 173-350-710 (7)(b)(i)

Decision

“YHD made a proper decision to deny the nonrenewal of the permit. Four of the six items listed above still need to be brought into compliance with the WACs, local and federal requirements.

Caton has not shown corrections made or plans to correct those items out of compliance. Caton has not shown that the YHD and DOE findings are incorrect.

The record illustrates that both YHD and DOE have earnestly tried to help Caton to come into compliance with the regulations.” - Dr. Neil Barg, Yakima Health District Health Officer, August 23, 2023

The PCHB Hearing would not occur until December 8-14, 2024.



Case Study - Permit Denial

Yakima County Superior Court Injunction

- The Caton Landfill continued to operate after the Health Officer upheld YHD's permit denial
- Awaiting the PCHB hearing, Caton Landfill was sent several notices:
  - Illegal dumping
  - Does not qualify for the "waste recycling facility" stay during appeal
- **YHD filed an injuction with Yakima Superior Court to close the facility during appeal to PCHB**
- **Injunction case dismissed** - Superior Court Judge determined the Administrative Process defined in regulation had not been exhausted
- Meanwhile...





Case Study - Permit Denial

Pollution Control Hearings Board: Yakima Health District v. Caton Landfill & Recycling LLC
WAC 173-350-710 (7)(b)(iii)

- YHD and Caton Landfill were represented by legal counsel
- Staff from YHD and Ecology were required to participate in depositions and interrogatories prior to the hearing
  - **Deposition**: Out-of-court testimony that is made under oath by a party or witness (as an expert) in response to oral or written questions and that is recorded by an authorized officer for later use in court
  - **Interrogatories**: A written formal question or inquiry required to be answered under direction of a court
- Both Appellant and Respondent had 2 full days to present arguments and call witnesses for testimony
- Both parties had opportunities for rebuttal during cross examining of witnesses



Reference: https://www.merriam-webster.com/

PCHB Highlighted Issues

Issues

- **Waste Recycling Facility Designation**
  - Is the landfill an operating waste recycling facility and allowed to operate during the appeal process?
- **Compliance with Air and Land Use Permits**
  - Can YHD determine noncompliance with other permits to meet performance standards of WAC 173-350?
- **Financial Assurance**
  - Did the landfill meet financial assurance requirements?
- **Arbitrary and Capricious Claim**
  - Did YHD act arbitrary and capricious processing the renewal application?
- **PCHB Permit Renewal Request**
  - Will PCHB renew the permit or direct YHD to renew?



YHD Position

- **Waste Recycling Facility Designation**
  - WAC defines recycling as transforming or remanufacturing into usable or marketable material
- **Compliance with Air and Land Use Permits**
  - YHD recieved written documentation of noncompliance
- **Financial Assurance**
  - The documents provided a lump sum without delineating costs to verify amount
  - Lack of boundary survey to support amount
- **Arbitrary and Capricious Claim**
  - YHD attempted voluntary compliance approach and did not make progress
- **PCHB Permit Renewal Request**
  - YHD asserts denial was valid based on WAC requirements

PCHB Decisions

Conclusions of Law

- “The Board concludes that Caton Landfill does not conduct “recycling” and therefore is **not a waste recycling facility** under RCW 70A.205.155.”
- “The Board concludes that **this regulation authorizes YHD to review and determine whether Caton Landfill is in compliance with other permits**, including its air permit and CUP.”
- “As of the date of the hearing, **Caton Landfill had not complied with financial assurance requirements** under WAC 173-350-400(9) and WAC 173-350-600.”
- “As of the date of hearing, **Caton Landfill still had not adequately addressed all regulatory requirements to support renewal of its solid waste permit**, including providing adequate financial assurance and a sufficiently updated operations manual.”
- “Based on the evidence, the Board concludes that **YHD did not act arbitrarily and capriciously** when processing the 2023 renewal of Caton Landfill’s solid waste permit.”
- “Despite numerous communications with regulators since May 2022, **Caton Landfill is still not in compliance and continues to operate without a valid solid waste permit**. Caton Landfill’s request for **renewal of the Permit is denied**.”
- “**The Yakima Health District’s decision to deny Caton Landfill’s renewal of its solid waste permit is AFFIRMED**. SO ORDERED this 10th day of April, 2025.”

- Pollution Control Hearings Board, PCHB No. 23-053

State House Bill 1154 - Effective July 27, 2025

- **Jurisdictional Health Departments (JHD) and Ecology must both approve landfill permit issuances and renewals beginning August 1, 2027**
- Ecology can override enforcement actions initiated by JHD if deemed inadequate
  - “Inadequate”
    - Not completing a follow up inspection to verify a violation
    - Not identifying observed violations at inspections
    - Not issuing an enforcement action after a violation is verfied
    - Not making substantial progress towards resolution of a verified violation
- JHD and Ecology gain the ability to impose civil penalties for noncompliance
  - up to $5,000 per day for first 14 days
  - up to $10,000 per day after 14 days
  - Penalties can be appealed to Local Health Officer or PCHB

YHD internal bylaws restrict our ability to raise penalties or fines



thank you!

Questions?

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The Yakima Health District gives special thanks to the Washington State Department of Ecology, Yakima Regional Clean Air Agency, and Yakima County Planning Division for their continued support and collaboration during these challenging enforcement cases.