

WAC 173-408-040 CERCLA exemption. (1) CERCLA exemption process:

This subsection establishes the process for an owner or operator of a CERCLA regulated landfill to claim an exemption from the requirements of this chapter. To claim exemption from the requirements of this chapter, the owner or operator of a CERCLA regulated landfill shall submit the following information to the department:

(a) The applicable CERCLA removal action memorandum or remedial action record of decision, including any amendments;

(b) A map of the portion of the landfill that has been designated as on-site for purposes of the CERCLA response action; and

(c) Additional information as needed to establish that the CERCLA regulated landfill meets the criteria for exemption set forth in subsection (2) of this section.

(2)(a) The department will review the submitted information and determine whether the CERCLA regulated landfill meets the following criteria for exemption from the requirements of this chapter:

(i) The CERCLA response action(s) must be currently under way at the CERCLA regulated landfill;

(ii) The owner or operator must demonstrate that complying with the requirements of this chapter would compromise the efficacy of the ongoing CERCLA response action(s);

(iii) The CERCLA response action(s) must require the installation or modification of a landfill gas collection and control system (GCCS); and

(iv) The owner or operator must demonstrate that the GCCS influences methane capture in the landfill.

(b) The department may consult with the U.S. Environmental Protection Agency while determining whether the CERCLA regulated landfill meets the above criteria for exemption from the requirements of this chapter.

(c) For zones or areas of a MSW landfill that are adjacent to but outside the area designated as on-site for purposes of the CERCLA response action(s), the substantive requirements of this chapter shall be considered as applicable or relevant and appropriate requirements (ARARs) in the selection of a removal or remedial action, and in evaluations of a removal or remedial action's compliance with ARARs during any subsequent five-year reviews required by CERCLA.

[Statutory Authority: Chapter 70A.540 RCW. WSR 24-11-052 (Order 22-15), § 173-408-040, filed 5/13/24, effective 6/13/24.]