



PREPROPOSAL STATEMENT OF INQUIRY

CR-101 (June 2004)

(Implements RCW 34.05.310)

Do NOT use for expedited rule making

Agency: Department of Ecology AO # 07-15

Subject of possible rule making: This rule making will amend chapter 173-351 WAC, Criteria for Municipal Solid Waste Landfills. The rule making will propose amendments to:

- Adopt new federal regulations and allow for issuance of Research, Development and Demonstration (RD&D) permits
- Eliminate equivalent and arid liner designs
- Extend greater flexibility for alternate liner designs consistent with federal regulations
- Address "general housekeeping" issues such as providing clarifications, making formatting changes, and ensuring that the rule is consistent with WAC 173-350, Solid Waste Handling Standards.

The anticipated revisions will impact all municipal solid waste landfill facilities in the state.

Statutes authorizing the agency to adopt rules on this subject: Chapter 70.95 RCW

Reasons why rules on this subject may be needed and what they might accomplish: EPA amended the federal rule (40 CFR Part 258) that allows states with approved state programs to provide variance from certain criteria for municipal solid waste landfills (MSWLF) to issue RD&D permits for new and existing MSWLF units and lateral expansions. In order for Washington to achieve full approval of our solid waste program Ecology needs to adopt these federal regulations. In addition, Ecology intends to eliminate equivalent and arid liner design criteria from the existing rule. EPA has never approved the equivalent design approach that 351 currently allows because it is based solely on engineering equivalency and does not take into account site specific conditions. Also, Ecology has determined that existing arid design criteria found in the rule is not protective of human health and the environment because application of this criteria can result in unlined landfills that do not adequately control leachate or landfill gas.

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies: EPA also regulates this subject. The federal solid waste criteria for municipal solid waste landfill rule requires the department to adopt rules to implement a solid waste program that, at a minimum, is consistent with the federal rule.

Process for developing new rule (check all that apply):

- Negotiated rule making
- Pilot rule making
- Agency study
- Other (describe)

Amendments to the rule will be drafted and reviewed by stakeholders, including EPA. Ecology will hold 2 informal public workshops where interested persons can comment on the rule before it is proposed. The public is invited to these workshops and will be provided the opportunity to comment on the proposed rule. At least two public hearings will be conducted. Ecology will post information on its website and send information to interested parties.

How interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication:

(List names, addresses, telephone, fax numbers, and e-mail of persons to contact; describe meetings, other exchanges of information, etc.)

Ecology will post information on its website, send information to interested parties, and hold 2 public workshops. Ecology will also hold public hearings on the proposed rule language.

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DATE

8/20/07

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