



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 # 15-01

Subject of possible rule making: The Department of Ecology is beginning a rulemaking to revise Chapter 173-351 WAC - *Criteria for Municipal Solid Waste Landfills* by adding two hazardous organic constituents to Appendix III of WAC 173-351-990: 2,3,7,8-Tetrachlorodibenzo- *p*-dioxin - [CAS 1746-01-6] and *alpha, alpha*-Dimethylphenethylamine [CAS 122-09-8].

Statutes authorizing the agency to adopt rules on this subject: RCW 70.95.020 and RCW 70.95.060

Reasons why rules on this subject may be needed and what they might accomplish: Revising Chapter 173-351 WAC will clarify requirements for landfill operators, and enable Ecology to obtain full approval of our municipal solid waste rules from the Environmental Protection Agency (EPA).

This revision is necessary to be consistent with federal rules in 40 CFR Part 258. Operators of municipal solid waste landfills must meet federal program requirements. Revising our rule eliminates possible noncompliance for facilities that inadvertently omit the two additional constituents required by federal rules. It also clarifies monitoring requirements for local jurisdictional health authorities that have the lead for issuing and enforcing solid waste permits.

Ecology's municipal solid waste landfill program operates under partial approval from EPA. With the proposed addition of these two constituents, EPA will publish a Tentative Determination of Full Program Adequacy in the Federal Register. If there are no objections, EPA will follow with an approval of the Research, Development and Demonstration (RD&D) element that is part of our current state program. After this rulemaking is complete and the revised rules are effective, we will update our application to EPA. That will complete the process to receive full approval of the program from EPA.

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies:

See attachment A.

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

- Negotiated rule making
- Pilot rule making
- Agency study

Other (describe) This is a standard rulemaking effort following the requirements set forth in the state's Administrative Procedures Act. The agency has a communication strategy for informing potentially affected facility managers and operators. We will advertise the rulemaking, and invite comments, including a public hearing.

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.)

Details of this rulemaking, including how to participate will be published on Ecology's web pages beginning at <http://www.ecy.wa.gov/programs/swfa/rules/ruleDev.html>. This rulemaking action is very limited in scope. It incorporates specific federal requirements, to which certain already established state requirements apply. Our communication strategy specifically calls for outreach to regulated facilities owners/operators and local jurisdictional health authorities. Ecology will invite informal comments and questions for a period of time prior to filing a formal rule proposal and holding a public hearing. Questions and inquiries should be directed to Kyle Dorsey, Rules and Policy Specialist; by e-mail to kyle.dorsey@ecy.wa.gov or phone 360-407-6559.

DATE

March 6, 2015

NAME (TYPE OR PRINT)

Laurie G. Davies

SIGNATURE

TITLE

Waste 2 Resources Program Manager

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

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WSR 15-07-014

Attachment A to CR-101

The United States Environmental Protection Agency (EPA) specifies criteria for municipal solid waste landfills under 40 CFR Part 258. The state program is currently partially approved by EPA under 40 CFR Part 239. The only identified barrier to full program approval of the state program is the lack of the two constituents identified in this preproposal for rulemaking. EPA has said they will move forward with full program approval if Ecology shows a commitment to make the changes in state rules proposed under this rulemaking. We have been coordinating with EPA, and legal counsel for both agencies have been involved. Local jurisdictional health authorities issue solid waste permits subject to Ecology review. Local permits must at least meet state program requirements. Ecology has a communication strategy for this rulemaking that includes outreach to all municipal solid waste landfill operators and health jurisdictions and impacted and interested parties.