WAC 197-11-970 Determination of nonsignificance (DNS).

DETERMINATION OF NONSIGNIFICANCE

Description of proposal: **Updating Rule**
Adopting changes to Chapter 173-430 WAC Agricultural Burning to do the following:

- **Adjust the field burning fee to cover the costs of administering and enforcing the permit programs,**
- **Change the pile burning fee to a per ton fee rather than a per acre fee,**
- **Address the finding in Ted Rasmussen Farms, LLC v. State of Washington, Department of Ecology, Docket # 22989-1-III (Rasmussen v. Ecology),**
- **Make housekeeping changes for consistency with the authorizing statute.**

Proponent **Washington State Department of Ecology, Air Quality Program**

Location of proposal, including street address, if any **Not applicable. The proposed rule applies statewide.**

Lead agency **Washington State Department of Ecology**

The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030 (2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request.

☐ There is no comment period for this DNS.

☐ This DNS is issued after using the optional DNS process in WAC 197-11-355. There is no further comment period on the DNS.

☑ This DNS is issued under WAC 197-11-340(2); the lead agency will not act on this proposal for 14 days from the date below.
Comments must be submitted by 5:00 pm on September 9, 2010

Responsible official Nancy Pritchett

Position/title Air Quality Program Rules and Planning Unit Supervisor Phone. (360) 407-6082

Contact: Richelle Perez Phone: (360) 407-7528 Email: Richelle.Perez@ecy.wa.gov

Address: 300 Desmond Drive, Lacey WA 98507 or PO Box 47600, Olympia, WA 98504-7600

Date. 7/13/2010 Signature for Nancy Pritchett

WAC 197-11-960 Environmental checklist.

ENVIRONMENTAL CHECKLIST

Purpose of checklist:

The State Environmental Policy Act (SEPA), chapter 43.21C RCW, requires all governmental agencies to consider the environmental impacts of a proposal before making decisions. An environmental impact statement (EIS) must be prepared for all proposals with probable significant adverse impacts on the quality of the environment. The purpose of this checklist is to provide information to help you and the agency identify impacts from your proposal (and to reduce or avoid impacts from the proposal, if it can be done) and to help the agency decide whether an EIS is required.

Instructions for applicants:

This environmental checklist asks you to describe some basic information about your proposal. Governmental agencies use this checklist to determine whether the environmental impacts of your proposal are significant, requiring preparation of an EIS. Answer the questions briefly, with the most precise information known, or give the best description you can.

You must answer each question accurately and carefully, to the best of your knowledge. In most cases, you should be able to answer the questions from your own observations or project plans without the need to hire experts. If you really do not know the answer, or if a question does not apply to your proposal, write "do not know" or "does not apply." Complete answers to the questions now may avoid unnecessary delays later.

Some questions ask about governmental regulations, such as zoning, shoreline, and landmark designations. Answer these questions if you can. If you have problems, the governmental agencies can assist you.

The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

Use of checklist for nonproject proposals:

Complete this checklist for nonproject proposals, even though questions may be answered "does not apply." IN ADDITION, complete the SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS (part D).

For nonproject actions, the references in the checklist to the words "project," "applicant," and "property or site" should be read as "proposal," "proposer," and "affected geographic area," respectively.

A. BACKGROUND

1. Name of proposed project, if applicable:
Adopting changes to Chapter 173-430 WAC Agricultural Burning to do the following:

- **Adjust the field burning fee to cover the costs of administering and enforcing the permit programs,**
- **Change the pile burning fee to a per ton fee rather than a per acre fee,**
- **Address the finding in Ted Rasmussen Farms, LLC v. State of Washington, Department of Ecology, Docket # 22989-1-III (Rasmussen v. Ecology),**
- **Make housekeeping changes for consistency.**

2. Name of applicant: **Washington State Department of Ecology**

3. Address and phone number of applicant and contact person:
Air Quality Program
Department of Ecology
300 Desmond Drive SE
PO Box 47600
Lacey, WA 98504-7600
Richelle Pérez (360) 407-7528

4. Date checklist prepared: **May 2010**

5. Agency requesting checklist: **Washington State Department of Ecology**

6. Proposed timing or schedule (including phasing, if applicable):
Ecology will file the CR-102 for the proposed new rule with the State Code Reviser in late July/August2010 and hold public hearings in September 2010. Ecology anticipates adopting a final rule in November 2010.

7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.

No

8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.

Not Applicable

9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.
Not Applicable

10. List any government approvals or permits that will be needed for your proposal, if known.

Not Applicable

11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may modify this form to include additional specific information on project description.)

The proposal changes how permitting authorities charge agricultural burning fees and how the Agricultural Burning Practices and Research Task Force sets agricultural fess. The proposal includes an initial fee increase and procedures to adjust the fee in the future. This proposal is not site specific. The fees will apply to farmers who need permits for field and pile burning.

12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

This rule does not apply to a specific location.

B. ENVIRONMENTAL ELEMENTS

1. **Earth**

a. General description of the site (circle one): Flat, rolling, hilly, steep slopes, mountainous, other . . . . . .
Not applicable - This proposal is not site specific.

b. What is the steepest slope on the site (approximate percent slope)?
Not applicable - This proposal is not site specific.

c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any prime farmland.
Not applicable - This proposal is not site specific.

d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.
Not applicable - This proposal is not site specific.

e. Describe the purpose, type, and approximate quantities of any filling or grading proposed. Indicate source of fill.
Not applicable - This proposal is not site specific.

f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe.
Not applicable - This proposal is not site specific.

g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?
Not applicable - This proposal is not site specific.

h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:
Not applicable - This proposal is not site specific.

a. **Air**

a. What types of emissions to the air would result from the proposal (i.e., dust, automobile, odors, industrial wood smoke) during construction and when the project is completed? If any, generally describe and give approximate quantities if known.

The proposal will provide a closer link between emissions from agricultural burning and the amount of the fee by changing the fee for pile burning to a per ton fee from a per acre fee. The proposal may reduce emissions because fee increases may encourage alternatives to burning.

b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.
Not applicable - This proposal is not site specific.

c. Proposed measures to reduce or control emissions or other impacts to air, if any:
Not applicable - This proposal is not site specific.

3. **Water**

a. Surface:

1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.
Not applicable - This proposal is not site specific.

2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.
Not applicable - This proposal is not site specific.

3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.
Not applicable - This proposal is not site specific.

4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known.
Not applicable - This proposal is not site specific.

5) Does the proposal lie within a 100-year floodplain? If so, note location on the site plan.
Not applicable - This proposal is not site specific.

6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.
Not applicable - This proposal is not site specific.

b. Ground:

1) Will ground water be withdrawn, or will water be discharged to ground water? Give general description, purpose, and approximate quantities if known.
Not applicable - This proposal is not site specific.

2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals. . . ; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.
Not applicable - This proposal is not site specific.

c. Water runoff (including stormwater):

1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.
Not applicable - This proposal is not site specific.

2) Could waste materials enter ground or surface waters? If so, generally describe.
Not applicable - This proposal is not site specific.

d. Proposed measures to reduce or control surface, ground, and runoff water impacts, if any:
Not applicable - This proposal is not site specific.

4. **Plants**

a. Check or circle types of vegetation found on the site:
Not applicable - This proposal is not site specific.

———— deciduous tree: alder, maple, aspen, other
———— evergreen tree: fir, cedar, pine, other
———— shrubs
———— grass
———— pasture
———— crop or grain
———— wet soil plants: cattail, buttercup, bullrush, skunk cabbage, other
———— water plants: water lily, eelgrass, milfoil, other
———— other types of vegetation

b. What kind and amount of vegetation will be removed or altered?
Not applicable - This proposal is not site specific.

c. List threatened or endangered species known to be on or near the site.
Not applicable - This proposal is not site specific.

d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:
Not applicable - This proposal is not site specific.

5. **Animals**

a. Circle any birds and animals which have been observed on or near the site or are known to be on or near the site:
Not applicable - This proposal is not site specific.

birds: hawk, heron, eagle, songbirds, other:
mammals: deer, bear, elk, beaver, other:
fish: bass, salmon, trout, herring, shellfish, other:

b. List any threatened or endangered species known to be on or near the site.
Not applicable - This proposal is not site specific.

c. Is the site part of a migration route? If so, explain.
Not applicable - This proposal is not site specific.

d. Proposed measures to preserve or enhance wildlife, if any:
Not applicable - This proposal is not site specific.

6. **Energy and natural resources**

a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.
Not applicable - This proposal is not site specific.

b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.
Not applicable - This proposal is not site specific.

c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any:
Not applicable - This proposal is not site specific.

7. **Environmental health**

a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur as a result of this proposal? If so, describe.
Not applicable - This proposal is not site specific.

1) Describe special emergency services that might be required.
Not applicable - This proposal is not site specific.

2) Proposed measures to reduce or control environmental health hazards, if any:
Not applicable - This proposal is not site specific.

b. **Noise**

1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?
Not applicable - This proposal is not site specific.

2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.
Not applicable - This proposal is not site specific.

3) Proposed measures to reduce or control noise impacts, if any:
Not applicable - This proposal is not site specific.

8. **Land and shoreline use**

a. What is the current use of the site and adjacent properties?
Not applicable - This proposal is not site specific.

b. Has the site been used for agriculture? If so, describe.
Not applicable - This proposal is not site specific.

c. Describe any structures on the site.
Not applicable - This proposal is not site specific.

d. Will any structures be demolished? If so, what?
Not applicable - This proposal is not site specific.

e. What is the current zoning classification of the site?
Not applicable - This proposal is not site specific

f. What is the current comprehensive plan designation of the site?
Not applicable - This proposal is not site specific

g. If applicable, what is the current shoreline master program designation of the site?
Not applicable - This proposal is not site specific

h. Has any part of the site been classified as an "environmentally sensitive" area? If so, specify.
Not applicable - This proposal is not site specific

i. Approximately how many people would reside or work in the completed project?
Not applicable - This proposal is not site specific

j. Approximately how many people would the completed project displace?
Not applicable - This proposal is not site specific

k. Proposed measures to avoid or reduce displacement impacts, if any:
Not applicable - This proposal is not site specific

l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:

Not applicable - This proposal is not site specific

9. **Housing**

a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.

Not applicable - This proposal is not site specific

b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.

Not applicable - This proposal is not site specific

c. Proposed measures to reduce or control housing impacts, if any:

Not applicable - This proposal is not site specific

10. **Aesthetics**

a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?

Not applicable - This proposal is not site specific

b. What views in the immediate vicinity would be altered or obstructed?

Not applicable - This proposal is not site specific

c. Proposed measures to reduce or control aesthetic impacts, if any:

Not applicable - This proposal is not site specific

11. **Light and glare**

a. What type of light or glare will the proposal produce? What time of day would it mainly occur?

Not applicable - This proposal is not site specific

b. Could light or glare from the finished project be a safety hazard or interfere with views?

Not applicable - This proposal is not site specific

c. What existing off-site sources of light or glare may affect your proposal?

Not applicable - This proposal is not site specific

d. Proposed measures to reduce or control light and glare impacts, if any:

Not applicable - This proposal is not site specific

12. **Recreation**

a. What designated and informal recreational opportunities are in the immediate vicinity?

Not applicable - This proposal is not site specific

b. Would the proposed project displace any existing recreational uses?. If so, describe.

Not applicable - This proposal is not site specific

c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:

Not applicable - This proposal is not site specific

13. **Historic and cultural preservation**

a. Are there any places or objects listed on, or proposed for, national, state, or local preservation registers known to be on or next to the site? If so, generally describe.

Not applicable - This proposal is not site specific

b. Generally describe any landmarks or evidence of historic, archaeological, scientific, or cultural importance known to be on or next to the site.

Not applicable - This proposal is not site specific

c. Proposed measures to reduce or control impacts, if any:

Not applicable - This proposal is not site specific

14. **Transportation**

a. Identify public streets and highways serving the site, and describe proposed access to the existing street system. Show on site plans, if any.

Not applicable - This proposal is not site specific

b. Is site currently served by public transit? If not, what is the approximate distance to the nearest transit stop?

Not applicable - This proposal is not site specific

c. How many parking spaces would the completed project have? How many would the project eliminate?

Not applicable - This proposal is not site specific

d. Will the proposal require any new roads or streets, or improvements to existing roads or streets, not including driveways? If so, generally describe (indicate whether public or private).

Not applicable - This proposal is not site specific

e. Will the project use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.

Not applicable - This proposal is not site specific

f. How many vehicular trips per day would be generated by the completed project? If known, indicate when peak volumes would occur.

Not applicable - This proposal is not site specific

g. Proposed measures to reduce or control transportation impacts, if any:

Not applicable - This proposal is not site specific

15. **Public services**

a. Would the project result in an increased need for public services (for example: fire protection, police protection, health care, schools, other)? If so, generally describe.

Not applicable - This proposal is not site specific

b. Proposed measures to reduce or control direct impacts on public services, if any.

Not applicable - This proposal is not site specific

16. **Utilities**

a. Circle utilities currently available at the site: electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other.

Not applicable - This proposal is not site specific

b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.

Not applicable - This proposal is not site specific

C. SIGNATURE

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature:

Date Submitted: 07/13/10

D. SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS

(do not use this sheet for project actions)

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.

When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?

The proposal will not increase discharge to water, emissions to air, production, storage, or release of toxic or hazardous substances, or production of noise.

The proposal changes how permitting authorities charge agricultural burning fees and how the Agricultural Burning Practices and Research Task Force sets agricultural fess. The proposal includes an initial fee increase and procedures to adjust the fee in the future. This proposal is not site specific. The fees will apply to farmers who need permits for field and pile burning.

Proposed measures to avoid or reduce such increases are:

Not Applicable

2. How would the proposal be likely to affect plants, animals, fish, or marine life?

The proposed rule will not affect plants, animals, fish, or marine life.

Proposed measures to protect or conserve plants, animals, fish, or marine life are:

Not Applicable

3. How would the proposal be likely to deplete energy or natural resources?

The implementation of the rule will not deplete energy or natural resources.

Proposed measures to protect or conserve energy and natural resources are:

The proposed rule does not have measures to reduce energy use.

4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?

The proposed rule does not change environmentally sensitive areas or areas designated for governmental protection.

Proposed measures to protect such resources or to avoid or reduce impacts are:

Not applicable.

5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?

Not applicable

Proposed measures to avoid or reduce shoreline and land use impacts are:

Not applicable

6. How would the proposal be likely to increase demands on transportation or public services and utilities?

Not applicable

Proposed measures to reduce or respond to such demand(s) are:

Not applicable

7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.

We do not expect any conflicts with current local, state, or federal rules, regulations, laws, or statutes.