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

DETERMINATION OF NONSIGNIFICANCE

Description of proposal: Ecology is proposing to add 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]. This revision is necessary to be consistent with federal rules in 40 CFR Part 258.

Proponent: Washington State Department of Ecology

Location of proposal, including street address, if any: The rule affects municipal solid waste landfills operating in areas under the jurisdiction of the Department of Ecology and local jurisdictional health authorities.

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.

X 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 September 8, 2015.

Responsible official: Laurie G. Davies

Position/title: Manager, Waste 2 Resources Program _____ Phone: 360-407-6103

Address: Washington State Department of Ecology; PO Box 47600; Olympia, WA 98504-7600 _____

Date. 7/13/15 Signature Laurie G. Davies

(OPTIONAL)

☐ You may appeal this determination to (name) _____
at (location) _____
no later than (date) _____
_____ by (method) .....

You should be prepared to make specific factual objections.
Contact _____ to read or ask about the procedures for SEPA appeals.

X There is no agency appeal.

SEPA ENVIRONMENTAL CHECKLIST

Purpose of checklist:

Governmental agencies use this checklist to help determine whether the environmental impacts of your proposal are significant. This information is also helpful to determine if available avoidance, minimization or compensatory mitigation measures will address the probable significant impacts or if an environmental impact statement will be prepared to further analyze the proposal.

Instructions for applicants:

This environmental checklist asks you to describe some basic information about your proposal. Please answer each question accurately and carefully, to the best of your knowledge. You may need to consult with an agency specialist or private consultant for some questions. You may use "not applicable" or "does not apply" only when you can explain why it does not apply and not when the answer is unknown. You may also attach or incorporate by reference additional studies reports. Complete and accurate answers to these questions often avoid delays with the SEPA process as well as later in the decision-making process.

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.

Instructions for Lead Agencies:

Please adjust the format of this template as needed. Additional information may be necessary to evaluate the existing environment, all interrelated aspects of the proposal and an analysis of adverse impacts. The checklist is considered the first but not necessarily the only source of information needed to make an adequate threshold determination. Once a threshold determination is made, the lead agency is responsible for the completeness and accuracy of the checklist and other supporting documents.

Use of checklist for nonproject proposals: [help]

For nonproject proposals (such as ordinances, regulations, plans and programs), complete the applicable parts of sections A and B plus the SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS (part D). Please completely answer all questions that apply and note that the words "project," "applicant," and "property or site" should be read as "proposal," "proponent," and "affected geographic area," respectively. The lead agency may exclude (for non-projects) questions in Part B - Environmental Elements –that do not contribute meaningfully to the analysis of the proposal.

A. Background [help]

1. Name of proposed project, if applicable: [help]

Revising Rules: Chapter 173-351 WAC – *Criteria for Municipal Solid Waste Landfills*

2. Name of applicant: [help]

Washington State Department of Ecology

3. Address and phone number of applicant and contact person: [help]

Waste 2 Resources Program
Washington State Department of Ecology
PO Box 47600
Olympia, WA 98504-7600

Contact: Kyle Dorsey (360) 407-6559 or kyle.dorsey@ecy.wa.gov

4. Date checklist prepared: [help]

May 6, 2015

5. Agency requesting checklist: [help]

Washington State Department of Ecology

6. Proposed timing or schedule (including phasing, if applicable): [help]

Ecology expects to propose revisions to the current rule in the summer of 2015, most likely in July, with a public hearing in August.

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

Ecology will seek final full approval of the state program from the U.S. Environmental Protection Agency once the state rule has been revised.

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

A draft of the proposed rule will be available for public review. The agency has previously published a *Preproposal Statement of Inquiry* (CR-101) for this rulemaking activity, and will publish a *Notice of Proposed Rulemaking* (CR-102) as part of the process of announcing the availability of the proposed rule for public review and comment. Additionally, the agency has completed a *Preliminary Cost-Benefit and Least-Burdensome Alternative Analyses* (Ecology Publication 15-07-026) and *Small Business Economic Impact Statement* (15-07-027).

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. [help]

Not applicable

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

None

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.) [help]

Ecology is proposing to revise Chapter 173-351 WAC - *Criteria for Municpal Solid Waste Landfills.* Ecology is proposing to add 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]. This revision is necessary to be consistent with federal rules in 40 CFR Part 258.

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. [help]

This rule is applicable to municipal solid waste landfills operated on lands under the jurisdiction of the State of Washington. Ecology has identified 25 municipal solid waste landfills in various phases of operation in the state, to which the proposed rule would apply.

B. ENVIRONMENTAL ELEMENTS [help]

Note: This is an administrative action by the Department of Ecology to revise an existing rule pertaining to the design, operation, and permitting of municipal solid waste landfills. The Environmental Elements in B of the checklist are not applicable. The project section (D) of the checklist has been completed.

1. Earth [help]

a. General description of the site: [help]

(circle one): Flat, rolling, hilly, steep slopes, mountainous, other _____

b. What is the steepest slope on the site (approximate percent slope)? [help]

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 agricultural land of long-term commercial significance and whether the proposal results in removing any of these soils. [help]

d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe. [help]

e. Describe the purpose, type, total area, and approximate quantities and total affected area of any filling, excavation, and grading proposed. Indicate source of fill. [help]

f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe. [help]

g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)? [help]

h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any: [help]

2. Air [help]

a. What types of emissions to the air would result from the proposal during construction, operation, and maintenance when the project is completed? If any, generally describe and give approximate quantities if known. [help]

b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe. [help]

c. Proposed measures to reduce or control emissions or other impacts to air, if any: [help]

3. **Water** [help]

a. Surface Water:

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. [help]

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. [help]

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. [help]

4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known. [help]

5) Does the proposal lie within a 100-year floodplain? If so, note location on the site plan. [help]

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. [help]

b. Ground Water:

1) Will groundwater be withdrawn from a well for drinking water or other purposes? If so, give a general description of the well, proposed uses and approximate quantities withdrawn from the well. Will water be discharged to groundwater? Give general description, purpose, and approximate quantities if known. [help]

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. [help]

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. [help]

2) Could waste materials enter ground or surface waters? If so, generally describe. [help]

3) Does the proposal alter or otherwise affect drainage patterns in the vicinity of the site? If so, describe. [help]

d. Proposed measures to reduce or control surface, ground, and runoff water, and drainage pattern impacts, if any: [help]

4. **Plants** [help]

a. Check the types of vegetation found on the site: [help]

____deciduous tree: alder, maple, aspen, other
____evergreen tree: fir, cedar, pine, other
____shrubs
____grass
____pasture
____crop or grain
____ Orchards, vineyards or other permanent crops.
____ 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? [help]

c. List threatened and endangered species known to be on or near the site. [help]

d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any: [help]

e. List all noxious weeds and invasive species known to be on or near the site. [help]

5. **Animals** [help]

a. List any birds and other animals which have been observed on or near the site or are known to be on or near the site. [help]

Examples include:

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

b. List any threatened and endangered species known to be on or near the site. [help]

c. Is the site part of a migration route? If so, explain. [help]

d. Proposed measures to preserve or enhance wildlife, if any: [help]

e. List any invasive animal species known to be on or near the site. [help]

6. **Energy and Natural Resources** [help]

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. [help]

b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe. [help]

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: [help]

7. **Environmental Health** [help]

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. [help]

1) Describe any known or possible contamination at the site from present or past uses. [help]

2) Describe existing hazardous chemicals/conditions that might affect project development and design. This includes underground hazardous liquid and gas transmission pipelines located within the project area and in the vicinity. [help]

3) Describe any toxic or hazardous chemicals that might be stored, used, or produced during the project's development or construction, or at any time during the operating life of the project. [help]

4) Describe special emergency services that might be required. [help]

5) Proposed measures to reduce or control environmental health hazards, if any: [help]

b. Noise [help]

1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)? [help]

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. [help]

3) Proposed measures to reduce or control noise impacts, if any: [help]

8. **Land and Shoreline Use** [help]

a. What is the current use of the site and adjacent properties? Will the proposal affect current land uses on nearby or adjacent properties? If so, describe. [help]

b. Has the project site been used as working farmlands or working forest lands? If so, describe. How much agricultural or forest land of long-term commercial significance will be converted to other uses as a result of the proposal, if any? If resource lands have not been designated, how many acres in farmland or forest land tax status will be converted to nonfarm or nonforest use? [help]

1) Will the proposal affect or be affected by surrounding working farm or forest land normal business operations, such as oversize equipment access, the application of pesticides, tilling, and harvesting? If so, how: [help]

c. Describe any structures on the site. [help]

d. Will any structures be demolished? If so, what? [help]

e. What is the current zoning classification of the site? [help]

f. What is the current comprehensive plan designation of the site? [help]

g. If applicable, what is the current shoreline master program designation of the site? [help]

h. Has any part of the site been classified as a critical area by the city or county? If so, specify. [help]

i. Approximately how many people would reside or work in the completed project? [help]

j. Approximately how many people would the completed project displace? [help]

k. Proposed measures to avoid or reduce displacement impacts, if any: [help]

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

m. Proposed measures to ensure the proposal is compatible with nearby agricultural and forest lands of long-term commercial significance, if any: [help]

9. **Housing** [help]

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

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

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

10. **Aesthetics** [help]

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

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

b. Proposed measures to reduce or control aesthetic impacts, if any: [help]

11. **Light and Glare** [help]

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

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

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

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

12. **Recreation** [help]

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

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

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

13. Historic and cultural preservation [help]

a. Are there any buildings, structures, or sites, located on or near the site that are over 45 years old listed in or eligible for listing in national, state, or local preservation registers located on or near the site? If so, specifically describe. [help]

b. Are there any landmarks, features, or other evidence of Indian or historic use or occupation? This may include human burials or old cemeteries. Are there any material evidence, artifacts, or areas of cultural importance on or near the site? Please list any professional studies conducted at the site to identify such resources. [help]

c. Describe the methods used to assess the potential impacts to cultural and historic resources on or near the project site. Examples include consultation with tribes and the department of archeology and historic preservation, archaeological surveys, historic maps, GIS data, etc. [help]

d. Proposed measures to avoid, minimize, or compensate for loss, changes to, and disturbance to resources. Please include plans for the above and any permits that may be required. [help]

14. Transportation [help]

a. Identify public streets and highways serving the site or affected geographic area and describe proposed access to the existing street system. Show on site plans, if any. [help]

b. Is the site or affected geographic area currently served by public transit? If so, generally describe. If not, what is the approximate distance to the nearest transit stop? [help]

c. How many additional parking spaces would the completed project or non-project proposal have? How many would the project or proposal eliminate? [help]

d. Will the proposal require any new or improvements to existing roads, streets, pedestrian, bicycle or state transportation facilities, not including driveways? If so, generally describe (indicate whether public or private). [help]

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

f. How many vehicular trips per day would be generated by the completed project or proposal? If known, indicate when peak volumes would occur and what percentage of the volume would be trucks (such as commercial and nonpassenger vehicles). What data or transportation models were used to make these estimates? [help]

g. Will the proposal interfere with, affect or be affected by the movement of agricultural and forest products on roads or streets in the area? If so, generally describe. [help]

h. Proposed measures to reduce or control transportation impacts, if any: [help]

15. **Public Services** [help]

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

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

16. **Utilities** [help]

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

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. [help]

C. Signature [help]

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: Kyle Dorsey

Name of signee Kyle Dorsey

Department of Ecolgy, W2R Program Rules Coordinator

Date Submitted: 6/30/15

D. supplemental sheet for nonproject actions [help]

(**IT IS NOT NECESSARY** to 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 discharges to the environment. The proposal will increase the number of pollutants monitored in groundwater samples from municipal solid waste landfills where contamination of groundwater has already been confirmed.

Proposed measures to avoid or reduce such increases are:

The proposal will enhance the likelihood that operators of municipal solid waste landfills identify potential releases of the two contaminants by expanding the list of chemicals required to be monitored after routine monitoring for a standard list of chemicals identifies a statistically significant increase over background levels.

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

The proposal will not affect plants, animals, fish, or marine life other than it is potentially more protective of the environment.

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 proposal will not deplete energy or natural resources.

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

Not applicable

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 proposal will not adversely affect environmentally sensitive areas.

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?

The proposal will not affect land or shoreline use.

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?

The proposal will not increase demands on transportation. The proposal will increase the obligation to monitor for potential pollutants in groundwater at the subset of municipal solid waste landfills that have confirmed groundwater contamination. Ecology has identified 25 municipal solid waste landfills in the state. About half have identified groundwater contamination and are engaged in assessment monitoring. Most of the landfills are operated by local governments, but some are operated by the private sector.

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

The proposal is to add two chemicals to an existing list in state rules, consistent with federal rules. The agency considered taking no action, but found that revising the state rule was the best course of action. Revising the state rule will make it consistent with the equivalent federal rules in 40 CFR Part 258, reduce the potential for non-compliance with federal rules, and improve the prospect of identifying two additional pollutants of concern that are not currently monitored under state rules. Ecology prepared a *Preliminary Cost Benefit and Least Burdensom Alternative Analysis* (Ecology publication number 15-07-026) for this rulemaking.

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

The proposal will improve consistency of state rules with federal rules, and is somewhat more protective of the environment. Local jurisdictions that have adopted local ordinances that do not automatically keep up with amendments to the state rule will need to update local ordinances to reflect the addition of the two contaminants.