



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000
711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

STATE ENVIRONMENTAL POLICY ACT

Determination of NonSignificance

January 22, 2018

Lead agency: Washington State Department of Ecology

Agency Contact: Kyle Dorsey, 360-497-6559, kyle.dorsey@ecy.wa.gov.

Agency File Number: AO# 13-08

Description of Proposal: The department is proposing a comprehensive update of the regulations in Chapter 173-350 WAC – *Solid Waste Handling Standards*. This rule is the state's primary rule for managing non-hazardous solid waste. The rule does not apply to the design or operation of municipal solid waste landfills, but it does apply to the design and operation of facilities that collect municipal solid waste, such as transfer stations. The rule does not apply to dangerous wastes regulated under Chapter 173-303 WAC - *Dangerous Waste Regulations*, but it does apply to moderate risk wastes that have characteristics of hazardous waste.

Location of proposal: These rules apply statewide exclusive of lands under federal or tribal jurisdiction.

Proponent: Laurie Davies, 360-407-6103, laurie.davies@ecy.wa.gov.

The Department of Ecology has determined that this proposal will 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). We have reviewed the attached Environmental Checklist and draft revised rules. This information is available at: <https://ecology.wa.gov/Regulations-Permits/Laws-rules/Rulemaking/WAC-173-350-Nov13>.

This determination is based on the following findings and conclusions:

Many changes to the rule are for the purposes of clarification and consistency, and to update references within the rule. Substantive changes are primarily to resolve issues that have arisen over time with implementation of the rule. The overall impact of changes is to improve recognition of products and commodities within the context of solid waste management, making it less burdensome for regulated entities to manage solid waste, but retaining requirements necessary to protect public health and the environment. The overall impact of changes is neutral or slightly more protective than the existing rule.



This DNS is issued under WAC 197-11-340(2) and the comment period will end on February 7, 2018.

Responsible Official:

Laurie G. Davies
Washington State Department of Ecology
PO Box 47600
Olympia, WA 98504-7600
360-407-6103
Laurie.davies@ecy.wa.gov

Signature Laurie G. Davies Date 1/22/18
(electronic signature or name of signor is sufficient)

Appeal process: *[enter applicable appeal provision for this DNS]*

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: [\[help\]](#)

Proposed revisions to chapter 173-350 WAC – *Solid Waste Handling Standards*

2. Name of applicant: [\[help\]](#)

Washington State Department of Ecology

3. Address and phone number of applicant and contact person: [\[help\]](#)

Kyle Dorsey, Waste 2 Resources Program Rules Coordinator
PO Box 47600
Olympia, WA 98504-7600
360-407-6559
kyle.dorsey@ecy.wa.gov

4. Date checklist prepared: [\[help\]](#)

January 12, 2017

5. Agency requesting checklist: [\[help\]](#)

Washington State Department of Ecology

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

Ecology anticipates filing a formal rule proposal in January 2018. We anticipate public hearings in early March 2018. Ecology will consider adoption following close of the public comment period, and staff evaluation of comments received. If adopted, changes to the rule will go into effect on the 31st day after adoption, which will likely be late April or early May.

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

None at this time.

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

The proposed rule has been drafted.

A preliminary regulatory analysis has been prepared. The analysis includes: Preliminary Cost-Benefit Analysis, Least Burdensome Alternative Analysis, Administrative Procedure Act Determinations, and Regulatory Fairness Act Compliance.

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. [\[help\]](#)

There are no other proposals directly affecting this rulemaking

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

No separate approvals are required, but the Director of the Department of Ecology will determine whether to adopt the rule following public hearings.

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.) [\[help\]](#)

This checklist supports the revision of Chapter 173-350 WAC – *Solid Waste Handling Standards*. Chapter 173-350 WAC is the primary state rule for the regulation of solid waste handling activities in Washington. The rules in Chapter 173-350 WAC do not regulate:

- Construction or operation of municipal solid waste landfills (Chapter 173-351 WAC – *Criteria for Municipal Solid Waste Landfills*)
- Dangerous Wastes (Chapter 173-303 WAC) except moderate risk wastes that are addressed in WAC 173-350-360.
- Transportation of solid wastes subject to the jurisdiction of the Washington Utilities and Transportation Commission (but see section 300 – *On site storage, collection, and transportation standards*, and section 355 – *Waste tire transportation*).

The rule lists other exclusions in section 020 - *Applicability*.

The rule sets criteria for what constitutes a solid waste (by definition in Section 100), and by a new section 021, *Determination of solid waste*. The rule describes activities that are not subject to regulation (section 020 – *Applicability*), and provides criteria for obtaining an exemption to permitting for certain solid waste handling activities (addressed in specific sections of the rule). A rulemaking completed in 2013 adopted revisions to the existing section 220 – *Composting facilities* and established the new sections 225 – *Other organic material handling activities* and 250 – *Anaerobic digesters*. Revisions proposed to those sections in this current rulemaking are for clarity and consistency with proposed revisions in other sections of the rule. Ecology does not consider changes to those three sections to be substantive, but has solicited stakeholder input for verification.

Solid waste handling activities (section shown in parentheses) addressed by the rule include:

- Beneficial use permit exemptions (200)*
- Recycling and material recovery facilities (210)*
- Land application of solid waste (230)*
- Energy recovery and incineration facilities (240)*
- On-site storage, collection and transportation standards (300)*
- Transfer stations and drop box facilities (310)*
- Piles used for storage or treatment (320)*
- Surface impoundments and tanks (330)*
- Waste tire storage (350)*
- Waste tire transportation (355)*
- Moderate risk waste handling (360)*
- Limited purpose landfills (400)*
- Inert waste landfills (410)*
- Other methods of solid waste handling (490)*
- Groundwater monitoring (500)*
- Financial assurance requirements (600)*
- Permitting requirements and processes (700, 710 and 715)*
- Remedial action (900)*

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. [\[help\]](#)

The proposed rule will apply statewide, exclusive of areas under federal or tribal jurisdiction. Local jurisdictional health authorities may adopt ordinances that are more stringent than state rules.

B. ENVIRONMENTAL ELEMENTS [\[help\]](#)

Note: *This checklist regards revision of the Solid Waste Handling Standards in Chapter 173-350 of the Washington Administrative Code (WAC). The environmental elements in this section (B) address project specific impacts (e.g. design and construction of a new transfer station). Most of the elements in this section cannot be known for the purposes of this rulemaking. Responses in Part B are generalizations in many cases. Facilities required to obtain permits under the rules must be consistent with Ecology approved local comprehensive solid waste management plans, and will be subject to individual environmental review.*

Supplemental Section D for non-project actions has been completed and can be found at the end of this checklist.

1. Earth [\[help\]](#)

a. General description of the site: [\[help\]](#)

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

Solid waste facilities are located in many settings, but because public/customer access is typically of paramount concern, sites are usually flat with all-weather access.

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

Slopes at solid waste management facilities are generally minimal. Two specific categories of facilities may present notable exceptions – landfills and surface impoundments. Landfill disposal facilities regulated under this rule include inert waste landfills and limited purpose landfills. Since these are landfills – pits – the active area and surrounds may include some steep slopes. Landfills often involve excavation and/or grading in their construction, and may at times have slopes that would typically range up to 2:1 H:V. Closure of landfills often results in slopes that are typically 3:1 H:V, although special circumstances may necessitate steeper slopes. Maintenance of slopes and the final cover on them is a routine element of landfill post-closure activities. Closure of these facilities generally minimizes steep slopes or areas of sharp relief. Final cover may be flat or gently sloping to facilitate runoff and minimize infiltration.

Surface impoundments also generally involve excavation and/or grading, with slopes of 3:1 H:V typically constructed as part of their containment systems.

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. [\[help\]](#)

Any type of soil can occur at the location of a proposed solid waste handling activity, although soils more favorable to construction and access by transportation vehicles are likely preferred. Section 230 of the rule addresses the land application of solid wastes for their nutrient or soil amending benefits. This often occurs on agricultural lands. In those cases, soil characteristics receive specific consideration in the process of evaluating a permit application.

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

Cannot be known for the purpose of this rulemaking. Several sections of the rule include locational standards that prohibit the siting of certain types of facilities in areas with unstable soils. Unstable soils may make locating a solid waste handling facility undesirable, or require addressing the condition as part of construction or operations.

- 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. [\[help\]](#)

Development of any kind of solid waste handling facility may involve some amount of excavation, grading and filling if only for the purposes of building and roadway construction. The rule addresses only two types of facilities that accept wastes for final disposal: inert waste landfills and limited purpose landfills. The permit threshold for landfilling of inert waste under the current rule is 250 cubic yards. A secondary threshold of 2,000 cubic yards is proposed. Sites where 250 – 2,000 cubic yards of inert waste will be disposed are conditionally exempt from permitting under the rule if they meet certain criteria for notification, operation, and reporting. A permit is required for the construction and operation of a limited purpose landfill (no permit exemption is provided). Limited purpose landfills receive solid waste that does not qualify as inert, is not municipal solid waste, and is not dangerous waste (the latter two waste types are subject to other regulations and not applicable under Chapter 173-350 WAC). Limited purpose landfills must meet certain criteria for design, construction and operation, and require groundwater monitoring and financial assurance. The rule does not specify an upper limit on the size of either type of disposal facility. Applicants are required to discuss the extent of filling in the permit process, as well as addressing it in a project specific environmental checklist.

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

Erosion could occur with the construction of a new facility, or due to improperly managed runoff at existing facilities. Standard construction practices should anticipate and manage impacts from erosion during the process. Facility design should prevent offsite erosion. The construction of many facilities addressed by this rule would be also subject to requirements of the Construction Stormwater Permit Program administered by Ecology's Water Quality Program. One of the objectives of that permit program is the control of erosion that could negatively affect waters of the state. Correction would be required if erosion occurs as the result of runoff or other activities during daily operations.

In some cases solid wastes may be applied to the land so that they improve soil stability. For example, land application of sludge produced during wastewater treatment at a food processing facility can aid the establishment of vegetation on unstable areas through the addition of nutrients and organic matter, thus reducing the potential for erosion or earth movement.

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

This is entirely project specific and cannot be anticipated in the context of this rulemaking.

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

For new construction, typical construction management practices would be in place, and the construction manager would have to address any observed erosions. Erosion should not occur with daily operations, and would indicate a need for changes in site management.

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. [\[help\]](#)

Construction of new solid waste handling facilities will result in typical emissions including dust and exhaust from equipment. New facilities may result in increased emissions due to more traffic, and there is the possibility of odors associated with some waste types. Daily operations at facilities where wastes are received, separated, recycled or stored may result in increased emissions including dust, exhaust from equipment, and odors. Some landfills and surface impoundments may generate landfill gas, principally methane and CO₂.

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

Off-site emissions/odors are unlikely to be a factor in the day-to-day operation of solid waste facilities, unless impacted neighbors fail to distinguish the source, and misdirect complaints.

- c. Proposed measures to reduce or control emissions or other impacts to air, if any: [\[help\]](#)

Plans of operations required by the rule for many solid waste handling activities are required to address the "control of litter, dust and nuisance odors." For limited purpose landfills, gas collection and control systems (as needed) are included in the rule's design and post-closure criteria. In some cases, tipping, sorting, and treatment/recycling occurs indoors. Filtration may be provided for exhausted air. Misting may mitigate fugitive dust emissions for outdoor (and indoor) operations. Minimizing storage times may reduce odors from some waste management operations

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. [\[help\]](#)

Unknowable in the context of this rulemaking. Generally, the rule does not prohibit solid waste handling facilities near surface waters, but compliance with local zoning and land use regulations including shoreline master plans, as well as state water quality rules and laws, is required.

There are specific locational standards for limited purpose landfills. These include prohibitions on location in a channel migration zone, and within 200 feet of surface waters.

- 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. [\[help\]](#)

Unknowable in the context of this rulemaking. The rule does not prohibit work within 200 feet of surface waters, except for limited purpose landfills. Compliance with local zoning and land use regulations including shoreline master plans, as well as state water quality laws and rules is required.

- 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. [\[help\]](#)

The rule does not specifically authorize dredging or placement of wastes in wetlands, but does regulate the upland placement or disposal of contaminated dredged sediments. There are no specific limits on the amounts of materials allowed to be disposed. Capacity is generally determined in the permitting process.

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

Solid waste facilities generally do not require surface water withdrawals. Diversion of surface waters would need to be addressed at the project level.

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

Specific locational standards are in place for limited purpose landfills. If a limited purpose landfill is located in a 100-year flood plain, then the entrance and exit roads and landfill practices are required to not restrict the flow of the base flood, reduce the temporary water storage capacity of the flood plain, or result in washout of solid waste.

- 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. [\[help\]](#)

The rules in Chapter 173-350 specifically seek to avoid impacts to surface water (or groundwater). Any discharge to surface water (other than clean stormwater that has not had contact with waste), would be subject to state water quality laws and could require an NPDES permit.

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. [\[help\]](#)

Solid waste handling rules do not specifically authorize or regulate discharges to groundwater. Limited purpose landfills (section 400) and in some cases surface impoundments (section 330) require resource-monitoring wells. Those wells are installed to monitor groundwater quality, and not for the purpose of a consumptive use.

- 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. [\[help\]](#)

The rules in Chapter 173-350 WAC do not authorize the discharge of waste material into groundwater. Section 230 of the rule addresses the land application of solid wastes for beneficial purposes; section 200 provides for a broader beneficial use permit exemption that may address the land application of solid wastes in addition to other beneficial uses. In these cases, wastes are applied to the land for their nutritive or soil improving qualities. Land application of food processing sludge from a wastewater treatment plant at a food processing facility is an example. Calculated application rates are based on crop nutrient needs. The solid waste rules do not authorize adverse impacts to groundwater, and solid waste handling activities are subject to applicable water quality laws and rules.

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. [\[help\]](#)

The rules in Chapter 173-350 WAC address a wide range of solid waste handling activities. The design requirements in many sections of the rule require design and operational considerations to address runoff. Runoff can originate from areas where solid waste handling occurs. Wastewater discharge from solid waste handling facilities is subject to water quality laws and rules, including permit requirements under the State Waste Discharge Permit or National Pollutant Discharge Elimination System permit programs if applicable. A case-by-case assessment of potential stormwater impacts is necessary. Minimal amounts of relatively innocuous storm water from solid waste handling areas will most likely be directed to a runoff control system employing swales and/or collection/infiltration basins (if necessary). Direct discharge to surface waters from storm water that is in contact with solid waste is less likely (and to the extent it might occur, much more likely to attract scrutiny and specific permit requirements, or result in an enforcement action).

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

Yes, it is possible. Solid waste handling facilities, however, are subject to water quality laws and regulations. The most likely means of discharge to surface or groundwater is through a typical storm water management system. Ecology solid waste specialists and local jurisdictional health staff are cognizant of this potential, and have regulatory tools to require construction and operational behaviors that avoid adverse impacts.

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

Unknown in the context of this rulemaking, although drainage patterns might be modified. A standard mitigation is to control run-on of storm water from off site, thereby reducing the potential to generate contaminated storm water.

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

A variety of design and operational approaches are possible. Not all may be suitable at any particular site. Run-on/runoff control is an explicit element of performance criteria for many solid waste handling activities in the rule. Handling solid waste inside a building or under a roof can virtually eliminate storm water intrusion onto active areas of a site, as well as minimize the contaminated runoff. When that is not possible, control of surface water run-on can be controlled by grading and simple diversion structures. Storm water runoff from active solid waste handling areas may be

managed by collection and filtering through swales and/or retention/infiltration basins. In some cases direct discharge to the sanitary sewer may be possible or required. The performance standards in section 040 create an overarching mandate to protect the environment, and water quality laws and rules remain in effect.

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

Any are possible

b. What kind and amount of vegetation will be removed or altered? [\[help\]](#)

Unknown for this rulemaking

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

Unknown for this rulemaking

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

Unknown for this rulemaking

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

Unknown for this rulemaking

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 _____

Any are possible

- b. List any threatened and endangered species known to be on or near the site. [\[help\]](#)

Unknown for this rulemaking

- c. Is the site part of a migration route? If so, explain. [\[help\]](#)

Unknown for this rulemaking

- d. Proposed measures to preserve or enhance wildlife, if any: [\[help\]](#)

Unknown for this rulemaking

- e. List any invasive animal species known to be on or near the site. [\[help\]](#)

Unknown for this rulemaking

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. [\[help\]](#)

Solid waste handling facilities generally require some amount of power. How much and for what purposes, varies with the kind of facility.

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

Unknown for this rulemaking, but it is unlikely that a solid waste handling facility would impair the ability of adjacent properties to use solar energy.

- 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: [\[help\]](#)

Unknown for this rulemaking

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. [\[help\]](#)

There are federal, state, and local rules in place because solid wastes do pose some degree of hazard. Revisions to the rule will not increase the amount of waste that will be generated, nor alter the fundamental character of that waste.

The rules in Chapter 173-350 WAC do not apply to Dangerous Wastes regulated under Chapter 173-303 WAC, or to the disposal of municipal solid wastes, which is regulated under Chapter 173-351 WAC – Municipal Solid Waste. The rule is otherwise broadly applicable to solid waste handling, and

includes but is not limited to materials as diverse as waste tires, inert wastes, non-hazardous industrial sludge, and moderate risk wastes. Establishing procedures for identifying and excluding dangerous wastes from solid waste handling facilities is an explicit element of the operating standards for many activities addressed in the rule. While the rule does not govern the landfill disposal of municipal solid waste, it does govern the permitting and operations of transfer stations, drop boxes, and material recovery facilities that handle municipal solid waste on a regular basis. The rule also governs the permitting and operation of municipal solid waste incinerators, except for air emissions (captured under air quality rules).

There is a risk of fire associated with solid waste handling facilities. The proposed rule recognizes the newer International Fire Code for the storage of waste tires, and proposes to cover the storage of tires indoors. The rule also governs the collection of moderate risk wastes. Moderate risk wastes are hazardous wastes regulated under solid waste rules because they are generated by households, or by businesses in small quantities (below the threshold of regulation as hazardous waste). Other wastes such as wood waste, paper wastes collected for recycling, and even organic material collected for composting all pose fire hazards to degree. Ecology has not identified any increased risk of fire associated with this rulemaking.

Changes to the rule allow returning moderate risk wastes, including pharmaceuticals, to the point of sale instead of limiting their return to only permitted moderate risk waste handling facilities. This means that home improvement stores, for example, can accept the return of paints and pesticides. Changes to the rule also allow law enforcement agencies to accept unused pharmaceuticals. All of these materials when "wastes" will eventually be disposed somewhere. Ecology does not believe changes in the rule increase the risk of releases to the environment, but instead increases the likelihood of proper handling when these materials are disposed, thus reducing the risk of environmental releases.

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

[\[help\]](#)

Unknown for this rulemaking

- 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. [\[help\]](#)

Unknown for this rulemaking

- 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. [\[help\]](#)

All solid wastes defined in WAC 173-350-100 and as determined under WAC 173-350-021, with the exception of those materials excluded under WAC 173-350-020 are subject to regulation. WAC 173-350-360 addresses Moderate Risk Waste that has a higher potential for toxicity. Changes may result in the temporary storage of moderate risk wastes occurring in different locations. Ecology does not believe changes to the rule will increase the amount of moderate risk waste that is produced or stored.

- 4) Describe special emergency services that might be required. [\[help\]](#)

Proposed changes to the rule do not increase the need for special emergency services. Proposed changes do address the storage of waste tires indoors. Ecology does not know how many

facilities are storing tires indoors, but those subject to permitting will now have to comply with fire code requirements.

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

The purpose of the rule in part is to protect public health and the environment from the adverse impacts of solid waste handling practices. Ecology does not identify any increased environmental health hazard due to proposed changes in the rule. WAC 173-350-040 Performance standards, requires in part that the owner or operator of any solid waste facility subject to this chapter must design, construct, operate, close and provide post-closure care as applicable, at any solid waste facility in a manner that does not pose a threat to human health or the environment.

Appropriate measures to reduce or control hazards depend on the type of waste managed, and the operational circumstances of any particular type of facility. For example, limited purpose landfills require a liner and groundwater monitoring, as well as funding for a post-closure care period. In contrast, a threat to groundwater is not expected from inert waste landfills, so monitoring is not required. Long-term care is not needed, so funding of the post-closure period is not required.

b. Noise [\[help\]](#)

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

Noise in the area of a solid waste handling facility should not have an impact on operations, unless other businesses or residents in the area are disturbed by noise from another source and mistakenly direct complaints toward the solid waste handling facility.

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. [\[help\]](#)

Vehicles coming and going from solid waste handling facilities can generate a significant amount of traffic noise. Activities associated with waste handling and processing at facilities may also generate significant noise. Impacts must be evaluated on a case-by-case basis, and cannot be anticipated for the purposes of this rulemaking.

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

Not applicable for the purposes of this rulemaking

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. [\[help\]](#)

The presence of a solid waste handling facility may affect the use of adjacent properties, but must also conform to local land use requirements. Proposed changes to the rule do not alter this aspect of the rule.

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? [\[help\]](#)

Most solid waste facilities will not be specifically associated with working farms or forests. Beneficial use permit exemptions under section 200, and the land application of solid wastes allowed under section 230, are the most likely nexus between the rule and these land uses. Sections 220 - Composting facilities, 225 - Other organic material handling activities, and 250 - Anaerobic digesters might also be connected with farmlands, but there are no substantial changes proposed to those sections of the rule with this revision. Ecology does not believe proposed changes have any impact in this regard, and this question can only be evaluated on a project level.

- 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: [\[help\]](#)

Ecology does not identify any impacts from proposed rule changes in this regard.

- c. Describe any structures on the site. [\[help\]](#)

Unknownable in the context of this rulemaking.

- d. Will any structures be demolished? If so, what? [\[help\]](#)

Unknownable in the context of this rulemaking.

- e. What is the current zoning classification of the site? [\[help\]](#)

Unknownable in the context of this rulemaking, but solid waste handling facilities must conform to local land use and zoning ordinances.

- f. What is the current comprehensive plan designation of the site? [\[help\]](#)

Unknownable in the context of this rulemaking, but solid waste handling facilities must conform to local land use and zoning ordinances.

- g. If applicable, what is the current shoreline master program designation of the site? [\[help\]](#)

Unknownable in the context of this rulemaking, but solid waste handling facilities must conform to local land use and zoning ordinances as well as requirements of shoreline plans.

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

Unknownable in the context of this rulemaking, but solid waste handling facilities must conform to local land use and zoning ordinances.

- i. Approximately how many people would reside or work in the completed project? [\[help\]](#)

Unknownable in the context of this rulemaking, but solid waste handling facilities generally do not provide for on-site residency.

- j. Approximately how many people would the completed project displace? [\[help\]](#)

Unknownable in the context of this rulemaking.

- k. Proposed measures to avoid or reduce displacement impacts, if any: [\[help\]](#)

Unknownable in the context of this rulemaking.

- l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any: [\[help\]](#)

Solid waste handling facilities are required to comply with local land use and zoning ordinances.

- m. Proposed measures to reduce or control impacts to agricultural and forest lands of long-term commercial significance, if any: [\[help\]](#)

Most solid waste handling facilities are unlikely to have a significant impact on agricultural or forestlands of long-term significance. Permits issued for the land application of solid waste under section 230 would specifically evaluate soils and benefits to crops. Depending on the nature of the proposal, beneficial use permit exemptions under section 200 would also consider soils and crops.

9. Housing [\[help\]](#)

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

Unknownable for the purposes of this rulemaking.

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

Unknownable for the purposes of this rulemaking.

- c. Proposed measures to reduce or control housing impacts, if any: [\[help\]](#)

Unknownable for the purposes of this rulemaking.

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? [\[help\]](#)

Unknownable for the purposes of this rulemaking.

- b. What views in the immediate vicinity would be altered or obstructed? [\[help\]](#)

Buildings associated with solid waste handling could affect views in the surrounding area. Landfills can have significant impacts. In addition to state solid waste rules, buildings are subject to local standards and landfills must comply with applicable fill and grade requirements. Proposed revisions to the rule are not expected to alter those impacts from the existing rule.

- c. Proposed measures to reduce or control aesthetic impacts, if any: [\[help\]](#)

Unknown for the purposes of this rulemaking

11. Light and Glare [\[help\]](#)

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

Unknownable for the purposes of this rulemaking. Some facilities may require lights to operate.

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

Unknownable for the purposes of this rulemaking. Some facilities may require lights to operate.

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

It is unlikely that off-site sources of light or glare would have an impact on a solid waste facility.

- d. Proposed measures to reduce or control light and glare impacts, if any: [\[help\]](#)

Unknownable for the purposes of this rulemaking.

12. Recreation [\[help\]](#)

- a. What designated and informal recreational opportunities are in the immediate vicinity? [\[help\]](#)

Unknownable for the purposes of this rulemaking.

- b. Would the proposed project displace any existing recreational uses? If so, describe. [\[help\]](#)

Unknownable for the purposes of this rulemaking.

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

Unknownable for the purposes of this rulemaking.

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? If so, specifically describe. [\[help\]](#)

Unknownable for the purposes of this rulemaking.

- 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. [\[help\]](#)

Unknownable for the purposes of this rulemaking, but would be subject to assessment if a permit is required for a specific project.

- 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. [\[help\]](#)

Unknownable for the purposes of this rulemaking.

- 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. [\[help\]](#)

Unknownable for the purposes of this rulemaking.

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. [\[help\]](#)

Unknownable for the purposes of this rulemaking.

- 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? [\[help\]](#)

Unknownable for the purposes of this rulemaking.

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

Unknownable for the purposes of this rulemaking.

- 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). [\[help\]](#)

Unknownable for the purposes of this rulemaking, but many solid waste handling facilities require all-weather roads for site service. Facilities that receive a lot of traffic may require modifications to adjacent roadways to manage impacts to traffic flow.

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

Unknownable for the purposes of this rulemaking.

- 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? [\[help\]](#)

Unknownable for the purposes of this rulemaking.

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. [\[help\]](#)

Unknownable for the purposes of this rulemaking.

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

Unknownable for the purposes of this rulemaking.

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. [\[help\]](#)

Solid waste facilities may increase the need for public services (and may also provide a public service). The most likely impact is the need for specialized emergency response to fires or spills, which, while not common, do occur. A new element of the operating criteria for limited purpose landfills requires operators to notify the local fire authority if gas control criteria are exceeded. The proposed rule also extends to waste tires stored inside buildings, and requires compliance with applicable fire code.

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

Unknownable for the purposes of this rulemaking.

16. **Utilities** [\[help\]](#)

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

Unknownable for the purposes of this rulemaking.

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. [\[help\]](#)

Unknownable for the purposes of this rulemaking.

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

Position and Agency/Organization Rules & Policy Coordinator, Dept. of Ecology
Waste & Resources Program

Date Submitted: 1/12/18

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?

Ecology does not believe proposed changes to the rule will increase discharges to water, emissions to air or the production or release of toxic or hazardous substances. Ecology believes changes will either be neutral or potentially reduce these undesirable impacts. Proposed changes may increase the temporary storage of moderate risk wastes (discussed further below).

A significant focus of this rulemaking is on clarifying rule language to resolve problematic long-term questions regarding interpretation and application of the rule. Revisions provide relief from regulatory burden in some circumstances, and increase obligations in others. Revisions streamline the regulatory process by eliminating some redundancies and recognizing the value of other regulations to protect the environment in some cases.

A discussion of changes to some specific sections follows.

Section 021 – Determination of solid waste

Manufacturing and waste management practices have evolved significantly since many of the state's underlying solid waste laws were put in place. Businesses and citizens have tried to produce less waste, reduce the potential adverse impacts of waste management practices, find constructive ways to use wastes, and improve recycling of wastes. The result has been a significant blurring of the line between wastes and products or commodities. These changes have presented a significant challenge to businesses and regulators when it comes to developing, understanding, and implementing related policies and rules.

In proposed section 021 of the rule, Ecology has created a means to determine if a material is a solid waste or a commodity. If a material meets any of seven criteria in subsection (2), it is a solid waste. Then, if all of the material meets all of the criteria in subsection (3), it is no longer a waste. If the material later fails to meet all of the criteria in subsection (3), it is once again a solid waste. Even though a material is no longer considered a solid waste, other rules still govern potential releases to the environment. Ecology believes it has found a balance between waste and product that provides some relief from regulatory burden while still protecting public health and the environment.

Section 040 – Performance standards

The performance standards in WAC 173-350-040 establish basic requirements for all solid waste handling facilities for protection of public health and the environment. Proposed revisions to section 040 convey that intent more concisely. Ecology proposes to delete subsections (2) and (4) because Ecology believes they are redundant to sections (1) and (5).

Subsections of WAC 173-350-040 proposed for deletion are shown below.

The owner or operator of any solid waste facility subject to this chapter must:

- (1) Design, construct, operate, and close all facilities in a manner that does not pose a threat to human health or the environment;
- ~~(2) Comply with chapter 90.48 RCW, Water pollution control and implementing regulations, including chapter 173-200 WAC, Water quality standards for groundwaters of the state of Washington;~~
- (3) Conform to the approved local comprehensive solid waste management plan prepared in accordance with chapter 70.95 RCW, Solid waste management—Reduction and recycling, and/or the local hazardous waste management plan prepared in accordance with chapter 70.105 RCW, Hazardous waste management;
- ~~(4) Not cause any violation of emission standards or ambient air quality standards at the property boundary of any facility and comply with chapter 70.94 RCW, Washington Clean Air Act; and~~
- (5) Comply with all other applicable local, state, and federal laws and regulations.

Proposed section 040 reads:

WAC 173-350-040 Performance standards. The owner or operator of any solid waste facility subject to this chapter must:

- (1) Design, construct, operate, close and provide post-closure care as applicable, at any solid waste facility in a manner that does not pose a threat to human health or the environment;
- (2) Not be in conflict with the approved local comprehensive solid waste management plan prepared in accordance with chapter 70.95 RCW, Solid waste management—Reduction and recycling, and/or the local hazardous waste management plan prepared in accordance with chapter 70.105 RCW, Hazardous waste management; and
- (3) Comply with all other applicable local, state, and federal laws and regulations.

Ecology believes the changes proposed to the *performance standards* in 040 make the rule shorter and easier to understand, but preserve the fundamental goal to protect public health and the environment.

Section 320 – Piles used for storage or treatment

The proposed rule increases the number of possible exemptions, based on the type of waste. Exemptions include wood waste, wood derived fuel, non-ferrous metals (new), brick, cured concrete, asphaltic materials, agricultural waste and on farm vegetative waste stored on farm, and contaminated soils and dredged materials. Many of these waste types can be, or are, typically recycled. Most exemptions still require notification and reporting, and all require compliance with the performance standards of section 040. Ecology believes the exemptions to permitting will remove regulatory barriers and encourage the recycling of the specific waste types listed. If businesses find the rule more accommodating, it may encourage more piles with more processing of material and more potential dust, noise, and run on/run off. We expect those discharges would still be required to meet applicable air and water quality standards. Ecology does not believe the proposed changes will increase releases to the environment.

Section 360 – Moderate risk waste handling

In section 360 the proposed rule removes some barriers to the collection of moderate risk wastes from consumers (some examples are old paint, pesticides and unused pharmaceuticals). The proposal may therefore increase the temporary storage of moderate risk wastes at collection facilities. The rule provides a new conditional exemption from solid waste permitting for pharmaceutical take-back activities. Ecology believes the exemption to permitting will remove regulatory barriers to conducting pharmaceutical take-back activity, thereby increasing the opportunities for safe and secure collection of unwanted pharmaceuticals. Increased safe and secure collection of unwanted pharmaceuticals will lead to fewer pharmaceuticals being discharged to the environment via flushing, tossing in the garbage, or being illegally dumped.

Section 410 Inert waste landfills

Ecology has proposed to eliminate section 990 – *Criteria for Inert Waste*, and defer to statutory criteria in RCW 70.95.165 that lists materials allowed to be disposed in an inert waste landfill. Revisions are proposed to definitions for some listed materials in section 100 of the rule. Changes proposed to section 410 increase the volume of material that can be disposed without a solid waste permit. The current rule allows disposal of up to 250 cubic yards before a permit is required. The proposed rule will increase the permit threshold to 2,000 cubic yards (a limit allowed under a previously adopted version of the rule). Facilities disposing of inert waste in volumes between 250 and 2,000 cubic yards will have to meet certain criteria in table 410-A (2) to remain permit exempt, as follows:

- (a) Meet the performance standards of WAC 173-350-040;
- (b) Manage the operation to prevent the generation of fugitive dust;
- (c) Allow the department or the jurisdictional health department to inspect the site at reasonable times;
- (d) Thirty days prior to operation, facilities must submit a notification of intent to operate as a conditionally exempt facility to the jurisdictional health department and the department. Notice of intent must be submitted on a form provided by the department and must be complete; and
- (e) Prepare and submit an annual report to the department and the jurisdictional health department by April 1st of forms supplied by the department. The annual report must detail the facility's activities during the previous calendar year and must include the following information:
 - (i) Name and address of the facility;
 - (ii) Calendar year covered by the report;
 - (iii) Annual quantities and types of solid waste landfilled; and
 - (iv) Any additional information required by the department.

Proposed changes provide relief from regulatory processes but not from environmental performance. Ecology does not believe the changes proposed to section 410 or 990 will significantly increase releases to the environment.

Contaminated dredged material and contaminated soil.

Under the current rule, contaminated dredged material can be disposed at upland sites as long as it meets the standards for open water disposal. Changes to the definition of contaminated dredged material under the proposed rule, will make the standards under Chapter 173-340 WAC – *Model Toxics Control Act* the applicable threshold. The standards for open water disposal are potentially less protective, so the proposed rule overall is expected to increase environmental protection, although it may not be a significant shift. Currently, contaminated soils only fall under the rule if they originate from a cleanup site or closure of a hazardous waste site. Soils that have been impacted but originate from other sources, fall outside of the rule. The proposed rule redefines contaminated soil to capture contaminated soils that originate from other sources. Changes to the definition require operators to ascertain they will not create a MTCA cleanup site by the placement of contaminated soils at any particular location. That determination is based on pollutant limits specific to the use of the site. Operators should already be making those kinds of determinations as a matter of simple diligence, for all contaminated soils regardless of origin, but that is not required under the current rule. The proposed rule expands the requirement to all soils that originate from a site where a release of contaminants has occurred, and is not limited to just cleanup of hazardous waste sites. We believe the proposed rule will be somewhat more protective of the environmental than the current rule. The lack of clarity in the current rule has resulted in inconsistent applications across jurisdictions, and has required more technical assistance than should be necessary. In turn, that has diverted the attention of regulators from other issues of potentially greater importance, and increased costs for businesses.

Proposed measures to avoid or reduce such increases are:

Ecology does not believe proposed changes to the rule will result in an overall increase in discharges to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise. The generation of solid waste is an unavoidable consequence of day-to-day activities of people and businesses. Proposed rule changes clarify the regulatory requirements and processes for addressing solid waste handling activities. Requirements for managing solid wastes under the proposed rule will increase in some cases, and decrease in others. The overall direction of the state program is to reduce solid waste generation and increase reuse and recycling while continuing to protect public health and the environment. Individual solid waste handling activities subject to permitting (including those that are required to obtain permits due to failure to meet criteria for permit exemption), are subject to project level environmental review and associated public processes.

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

Ecology does not believe proposed revisions to the solid waste handling rules will change impacts to plants, animals, fish or marine life. All solid waste handling facilities remain subject to the general performance standards of section 040, and must meet specific requirements to qualify for an exemption to permitting. Proposed changes to the rule do not give license to pollute, but do provide relief from regulatory burdens for solid waste handling activities that are smaller, shorter term in nature, are generally less likely to have an adverse impact to the environment, or are better managed under other laws and rules. Existing and proposed solid waste facilities must be consistent with the local comprehensive solid waste management plan, and must conform to state and local solid waste rules and permit requirements designed to protect the environment. In addition, solid waste handling facilities must comply with other applicable laws and rules relating to the protection of air, water and land.

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

Ecology does not anticipate increased impacts to plants, animals, fish or marine wildlife. Solid waste handling facilities are necessary to protect the environment.

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

Ecology does not believe revisions to the rule deplete energy or natural resources. On the contrary, changes in the rule result in a better recognition of commodities produced by recycling, and lessen the regulatory burden for materials that have a positive market value and meet other criteria described under proposed WAC 173-350-021 – *Determination of solid waste*.

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

Ecology does not anticipate adverse impacts.

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?

Ecology does not expect proposed changes to have an effect on the potential for conflict between solid waste management activities and the types of sensitive or critical areas addressed in this question. The rule regulates solid waste handling activities that by law require a permit or an exemption from permitting based on meeting criteria established in the rule. Facilities requiring a permit must be consistent with the approved local comprehensive solid waste management plan, and are subject to

evaluation under the State Environmental Policy Act. The prospect of siting a solid waste facility in an environmentally sensitive area, or an area under consideration for protections, is remote. Ecology believes the possibility that it would occur without extensive environmental review is virtually nonexistent.

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

Ecology does not anticipate adverse impacts to environmentally sensitive areas. The best approach to implementation is assuring that local determinations comply with establishing land use plans, and that project level SEPA review is properly completed.

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?

Ecology does not expect that proposed revisions to the rule will increase land or shoreline uses, or create uses that are incompatible with existing plans. New section 021 may recognize a former waste as a product (for example, crushed concrete meeting specifications for structural fill). It is possible that some commodities formerly classified as wastes will be used in development activities allowed under local land use or shoreline comprehensive plans. Significant solid waste handling activities require permits issued by the local jurisdictional health departments, must be consistent with an approved local comprehensive solid waste management plan, and must comply with all other applicable rules and regulations. Some solid waste management facilities may qualify for permit exemptions under specific sections of the rule (for example, piles used for storage or treatment). Exemptions generally require adherence to performance standards established in section 040, and additional criteria such as notification and reporting as required in specific sections of the rule for particular solid waste handling activities.

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

Ecology does not anticipate adverse impacts to land and shoreline use. The best approach to implementation is assuring that local determinations comply with established land use plans.

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

Ecology does not believe proposed changes will increase demands on transportation or public services and utilities as they are normally considered. Materials will be in transport as solid wastes or commodities, regardless of proposed changes. In general, Ecology does not expect proposed changes to increase or decrease public access to solid waste management facilities or related public services. The rule will in some fashion shift the balance of permits and permit exemptions for solid waste handling, and may or may not increase demands for the technical assistance and regulatory oversight of local jurisdictional health authorities. Ecology does not expect an overall dramatic shift in the demand for local support, and over time expects this demand will diminish as generators and local regulators become accustomed to interpreting and complying with the revised rules. Ecology believes the applicability of the rule will be clearer, and that the reduction in uncertainty will yield an overall positive benefit over time.

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

If Ecology adopts the revised rule, we will give close attention to feedback from local health authorities and the regulated community. Technical guidance or policy development can sometimes help to mitigate unanticipated impacts. Ecology can always revise the rule to improve it based on experience (in fact, what is being done with this proposal).

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

Ecology has not identified any conflict of proposed rule changes with local, state, or federal laws or requirements for protection of the environment. The performance standards of section 040 (requiring general protection of the environment and compliance with other laws and rules) are applicable to all solid waste handling activities. State rules for solid waste management generally exceed analogous federal regulations under subtitle D of the *Resource Conservation and Recovery Act*. Ecology has coordinated internally with staff in our Hazardous Waste Management, Toxics Cleanup and Water Quality programs to avoid creating conflicts, as well as the state Department of Natural Resources and State Department of Transportation. We have also worked with local jurisdictional health authorities who may adopt ordinances that are more stringent than state rules.

