

Highlights of the 2009 Amendments to the Dangerous Waste Regulations

Purpose of the Amendments

The Washington State Department of Ecology (Ecology) amended the Dangerous Waste Regulations ([Chapter 173-303 WAC](#)) July 2009.

The primary purpose of the rule revision was to incorporate federal requirements into the state's rules. Ecology is authorized by the Environmental Protection Agency (EPA) to implement the federal hazardous-waste rules in Washington. To ensure consistency, Ecology must periodically update the rules by adopting new federal requirements. These changes provide consistency with the federal hazardous-waste rules.

Other changes were made to update state-specific requirements, including technical corrections and other improvements.

Federal Rules Adopted by the State

❑ Standards for Used Oil Fuel Marketers

Used oil initial marketer record keeping requirements were changed. The initial marketer of on-specification used oil only need keep a record of each shipment of used oil to the receiving facility. WAC 173-303-515(11) (40 CFR 279.74(b) is incorporated by reference).

❑ K181 Dyes and/or Pigments Production Wastes

Dyes and pigment production wastes were added as listed K181 wastes to the Dangerous Waste Sources Lists. If threshold levels of specific chemicals are exceeded, the wastes can either be managed as listed dangerous waste, disposed in an approved municipal landfill, or combusted. WAC 173-303-9904

MORE INFORMATION

You may view the adopted version of the regulations (the sections that were amended), the *Concise Explanatory Statement*, and *Responsiveness Summary* (including Ecology's responses to public comments) at www.ecy.wa.gov/laws-rules/activity/wac173303.html.

The *Dangerous Waste Regulations* (www.ecy.wa.gov/pubs/9291.pdf) and the *Responsiveness Summary* (www.ecy.wa.gov/pubs/0904013.pdf) are also available online.

For more information on rule amendments, visit Ecology's Rulemaking web site at www.ecy.wa.gov/laws-rules/rulemaking.html, or contact an Ecology office near you:

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❑ **Manifest System**

The revisions to the uniform hazardous waste manifest standardize the content and appearance of the manifest form and continuation sheet, make the forms available from a greater number of sources, and adopt new procedures for tracking certain types of waste shipments with the manifest. These requirements have been in effect and implemented by Ecology since 2006. WAC 173-303-180

❑ **Universal Waste Mercury-containing Equipment**

Ecology added mercury-containing equipment as a universal waste in 2005. The 2009 change aligns the state rule with the federal rule. Previously in the state rule thermostats were a separate category of universal waste. Now thermostats are considered mercury-containing equipment. Additional rules were added for managing various types of equipment containing mercury in open housings (for example, barometers). WAC 173-303-573

❑ **Burden Reduction Initiative**

Ecology did not adopt most aspects of this rule, which reduced facility requirements for record retention, submitting reports and notifications to Ecology, and use of an independent professional engineer. Ecology did adopt changes to groundwater detection and compliance monitoring programs and allowing use of an integrated contingency program at treatment, storage, and disposal facilities. .

❑ **Corrections to CFR Errors**

Ecology corrected numerous errors in the Dangerous Waste Regulations stemming from errors in the federal hazardous waste regulations. One notable change was to the chromium exclusion found in WAC 173-303-071(3)(aa)(ii), which clarified that the exclusion only applies to wastes generated by the leather tanning and finishing industry. The exclusion had, at times, wrongly been used to exclude spent leather products.

❑ **Hazardous Waste Combustors**

This rule finalizes national Emissions Standards for Hazardous Air Pollutants (NESHAPS) at hazardous waste combustors.

State-initiated Rule Amendments

State-initiated amendments are either changes to federal rules previously adopted, or are changes to rules unique to Washington State, known as state-only rules. Most changes were minor; the more important changes are noted here.

❑ **Closure Definition**

The definition for “closure” was clarified for applicability and meaning. WAC 173-303-040

❑ **Waste Counting Exclusion**

This rule clarifies that the counting exclusion (for wastes treated in on-site elementary neutralization units, wastewater treatment units, and totally enclosed treatment units) applies to permit by rule (PBR) in WAC 173-303- 802(5). WAC 173-303-070(7)(c)(iii)

❑ **State Toxicity Book Designation**

Two database resources for state toxicity book designation were added: the Hazardous Substances Data Bank (HSDB) and the Ecotoxicology database (ECOTOX). These sources have aquatic toxicity data that is lacking in the NIOSH RTECS database (previously the sole resource listed in the rule).

The rule was also changed so that data giving the highest toxicity is used, regardless of which database it came from. Previously, data from RTECS overruled other database results in cases where toxicity data does not agree on the same toxic category (X, A, B, C, D) within the same test endpoint (fish, rat, or rabbit). WAC 173-303-100(2),(3) and (5)(b)(i)

❑ Lab Pack Codes

Lab pack codes were eliminated due to a conflict with the new federal manifest rule. WAC 173-303-104(5), WAC 173-303-180(5)

❑ Biological Testing Methods for Designating Dangerous Waste

Ecology publication *Biological Testing Methods*, #80-12 was updated to make it clearer and to remove outdated information. WAC 173-303-110(3)(b)

❑ Chemical Test Methods for Designating Dangerous Waste

Ecology publication *Chemical Test Methods*, #97-407 was extensively revised to make it easier to understand and use. WAC 173-303-110(3)(c)

❑ Methods Innovation Rule

This federal rule (promulgated in 2005) removed a regulatory requirement to use EPA SW-846 Test Methods when conducting RCRA-related sampling and analysis. Ecology did not adopt this optional rule, but did make numerous changes in the regulations to clarify that we still require use of methods approved in the Dangerous Waste Regulations, including SW-846 methods. Where federal requirements (pertaining to testing) have been incorporated by reference, we specify that approved methods in WAC 173-303-110 be used.

❑ Test method reporting

Test method results need to be reported on a dry weight basis. WAC 173-303-110(6)

❑ Groundwater Monitoring List

The Groundwater Monitoring List in 40 CFR Part 264 Appendix IX is replaced with the version in Appendix 5 of the *Chemical Test Methods* publication. WAC 173-303-110(7)

❑ Satellite Accumulation

The phrase “per waste stream” was removed for consistency with the federal rules. Ecology will continue to implement this rule as it has in the past. Separate satellite areas may be located adjacent to one another to accumulate different waste streams generated in the same vicinity. Volume still cannot exceed 55 gallons per individual satellite accumulation area. See updated Ecology publication *Satellite Accumulation*, #94-120. WAC 173-303-200(2)(a)

❑ Permit pre-application requirements

These amendments change permit pre-application requirements pertaining to siting criteria. Recycling facilities that meet limiting factors are exempt from siting criteria and from the need to enter into citizen/proponent negotiations. Also, some TSDs seeking a significant expansion are exempt from citizen/proponent negotiations. WAC 173-303-282(2)(b)(v), WAC 173-303-282(3)(p), and WAC 173-303-902(2)(c)(i)-(vi)

❑ Closure requirements for CFC recyclers

CFC recyclers are no longer exempt from closure and financial responsibility requirements. WAC 173-303-506(3)(vii)

❑ Used oil financial assurance option

Allows a new optional financial assurance instrument for used oil processors and recyclers, termed an “assigned security deposit.” This new option makes it easier for these facilities to obtain financial assurance. WAC 173-303-620(4)(c)