



WASHINGTON STATE
DEPARTMENT OF
E C O L O G Y

As required by the Washington State Administrative Act, RCW 34.05.

IMPLEMENTATION PLAN FOR THE ADOPTION OF
Chapter 173-333 WAC,
Persistent Bioaccumulative Toxins

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IMPLEMENTATION PLAN FOR THE ADOPTION OF
CHAPTER 173-333 WAC,
Persistent Bioaccumulative Toxins

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Implementation Plan for Chapter 173 - 333 WAC, Persistent Bioaccumulative Toxins

1. Please describe how the Agency intends to implement and enforce the rule. Please include a description of the resources the Agency intends to use.

The new PBT rule is a procedural rule and will be known as Chapter 173-333 WAC – Persistent Bioaccumulative Toxins Regulation. The rule contains a list of chemicals that are defined as PBTs, lays out a process to prioritize and schedule future Chemical Action Plans (CAPs) and establishes procedures for developing CAPs.

The PBT Rule sets forth evaluation factors and processes that Ecology will use to determine whether and/or when a CAP should be prepared for a particular PBT. Using these evaluation factors, Ecology, in consultation with the Department of Health (DOH), will prepare a multiyear schedule for the preparation of CAPs.

2. Please describe how the Agency intends to inform and educate affected persons about the rule.

Prior to drafting rule language, Ecology created an external rule advisory committee, involving business organizations, government agencies, environmental and public health advocates, and other community groups to provide input in the development of rule language. This advisory committee met six times between August – December 2004 and again in September 2005 to provide input and recommendations to Ecology as draft rule language was being developed. Details about each PBT Rule Advisory Committee meeting and other information related to the development of a PBT Rule can be found at: <http://www.ecy.wa.gov/programs/eap/pbt/rule/index.html>.

Ecology has notified former PBT Rule Advisory committee members and other interested parties about the adoption of this rule. Ongoing updates on Ecology's PBT Rule web site are expected to occur as multiyear schedules and CAPs are being drafted for public review and comment.

Additionally, as this rule is being implemented, Ecology will continue to notify interested parties and the general public. Public involvement opportunities are provided in the development of the multiyear schedule (Section 410), and in the development of each CAP (Section 420 and 430)

3. Please describe how the Agency intends to promote and assist voluntary compliance for this rule.

This rule applies to the Department of Ecology only. It does not apply to others. The following rule language directs this:

***WAC 173-333-120 Applicability.** (1) This chapter applies to the department of ecology (ecology). This chapter does not impose new requirements on persons using or releasing PBTs, and it does not create new authorities nor does it constrain existing authorities for ecology.*

Secondly, this rule requires Ecology, as part of the development of each CAP, to follow and complete a set of “implementation steps” as described in Section 420 (1) (g). Implementation step (iv) requires Ecology to:

“...promote, assist, and evaluate the effectiveness of voluntary actions”

In previous CAPs for mercury and PBDEs, Ecology found voluntary compliance actions to be effective tools for achieving (phased-in) technology changes and compliance with existing regulations. For future CAPs, Ecology expects to continue to promote voluntary actions as part of the CAP’s recommendations and to evaluate the effectiveness of these voluntary actions.

4. Please describe how the Agency intends to evaluate whether the rule achieves the purpose for which it was adopted, including to the maximum extent practicable, the use of interim milestones to assess progress and the use of objectively measurable outcome.

The PBT Rule directs Ecology to develop and periodically update a multiyear schedule. Ecology will review and, as appropriate, update the schedule for chemical action plans at least once every three years (see Section (410) (6)).

Secondly, as specified in Section (420) (h), each CAP to be developed and implemented by Ecology is to identify performance measures and interim milestones to assess progress and the use of objectively measurable outcomes, including recommendations for environmental and human health monitoring to measure levels of the chemical(s) (in the CAP) over time and whether the goals and purposes of the CAP are being achieved.

5. Please describe how the Agency intends to train and inform Ecology staff regarding new rule or rule amendment.

The PBT Rule will be implemented by headquarters-based staff and management who are part of the agency’s Solid Waste and Financial Assistance Program. Since PBT chemicals have cross media (air, land, and water media) environmental impacts, key staff from Ecology’s Air, Environmental Assessment, Hazardous Waste, Solid Waste, Toxics Cleanup, and Water Quality programs have been involved in CAP development for two CAPs that have been completed prior to or concurrent with rule development. This multi-program “technical team” effort will continue with the development of CAPs in the future.

Additional education of the PBT rule is expected to be provided to agency staff in a series of invited presentations at program and section staff meetings during 2006.

6. Please identify supporting documents that may need to be revised because of the rule amendment. Or Identify new supporting documents that need to be developed because of a new rule.

The document entitled: “*Technical Background Information for The Proposed PBT List (October 2005 draft)*” will need to be updated now that the PBT Rule has been filed.