



DEPARTMENT OF
ECOLOGY
State of Washington

**Rule Implementation Plan
Dangerous Waste Regulations
Chapter 173-303 WAC**

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Rule Implementation Plan
Dangerous Waste Regulations
Chapter 173-303 WAC

Hazardous Waste and Toxics Reduction Program

Washington State Department of Ecology

Olympia, Washington

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Purpose

The Washington State Department of Ecology (we, our, Ecology) developed this rule implementation plan (the plan, this plan) to:

- Adhere to our agency's standards.
- Comply with the requirements of the Administrative Procedures Act—Chapter 34.05.328 Revised Code of Washington (RCW).
- Outline implementation priorities and goals.

This plan describes how Ecology intends to:

- Implement and enforce the revised rule.
- Inform people affected by the revised rule.
- Promote and support voluntary compliance.
- Evaluate the revised rule.
- Inform, train, and support staff.

This plan also includes contact information for Ecology employees who can answer questions about compliance with the revised rule and this plan.

Introduction

On September 30, 2020, Ecology adopted revisions to Chapter 173-303 Washington Administrative Code (WAC)—Dangerous Waste Regulations. The rulemaking process started in 2019 and included the following milestones.

- Aug. 2, 2019: Announced to the public that we started the rulemaking process.
- Mar. 25, 2020: Proposed potential rule revisions to the public.
- May 5, 2020: Held a public hearing.
- Sep. 30, 2020: Adopted the revised rule.
- Oct. 31, 2020: The revised rule becomes effective 31 days after the adoption date.

Through this rulemaking (AO #19-07), Ecology:

- Incorporated new federal hazardous waste rules.
- Made corrections and clarifications to improve readability.
- Updated biological testing methods.

Implementation and Enforcement

Ecology's Hazardous Waste and Toxics Reduction Program (HWTR) is authorized by the U.S. Environmental Protection Agency (EPA) to implement the Dangerous Waste Regulations. HWTR maintains this authorization by adopting new federal hazardous waste rules, and through the enforcement of our state regulations. We adopt new federal regulations on a regular basis to remain consistent with federal hazardous waste regulations.

Washington State is required to adopt some of the federal regulations, while others are optional. This rulemaking effort included both types of rules. Ecology amended specific sections of the Dangerous Waste Regulations to incorporate requirements from the following federal hazardous waste rules.

- Management Standards for Hazardous Waste **Pharmaceuticals** and Amendments to the P075 Listing for **Nicotine**. 84 FR 5816; February 22, 2019
- Safe Management of **Recalled Airbags**. 83 FR 61552; November 30, 2018
- Hazardous Waste Management System: User Fees for the **Electronic Hazardous Waste Manifest System** and Amendments to Manifest Regulations. 83 FR 420; January 3, 2018

Ecology updated the state Dangerous Waste Regulations to clarify requirements, streamline compliance, and ensure that state dangerous wastes are properly and safely managed. Additionally, we adopted state-initiated amendments to correct and clarify existing requirements. These changes will promote better waste management, environmental protection, and consistency with the federal rules.

We also updated our Biological Testing Methods for the Designation of Dangerous Waste publication 80-12 to meet current standards. This laboratory guidance provides the fish bioassay method used to designate wastes for state toxic criteria.

The rule revisions will go into effect 31 days after they are adopted. Ecology staff will work with the regulated community before and after the effective date, to help them prepare for compliance with the revised requirements.

Many stakeholders contributed to this rulemaking effort and will be involved in the implementation of the revised rule. State, county, and city agencies have an interest in the revised rule and may assist small businesses as they take actions to comply. Our primary focus is on outreach and education. We intend to provide technical support, guidance, and training materials to inform:

- Health care facilities—hospitals, long-term care facilities, health clinics, physicians' offices, pharmacies, veterinary clinics, dental offices, optical providers, and chiropractors—about the revised regulations related to pharmaceutical waste.

- Vape shops, pharmacies, supermarkets, gas stations, and other retailers of FDA-approved over-the-counter nicotine replacement therapies about the revised regulations related to nicotine and vape waste.
- Car dealerships and vehicle recyclers about the revised regulations and the safe management of recalled airbags.

The adopted rule revisions should **not** require additional staff for implementation. HWTR staff will prioritize tasks to implement the revised rule—such as informing stakeholders and developing guidance—and will continue to collaborate across the agency and with the regulated community.

HWTR’s hazardous waste inspectors work with medium and large quantity generators. They conduct site inspections, review records, interview facility personnel, document their findings in inspection reports, and follow up to ensure violations are corrected. Inspectors also provide limited technical assistance during site visits and will help educate facilities about the revised rules.

Additionally, HWTR’s toxic reduction experts will inform facilities they interact with—which generally include businesses that generate large quantities of dangerous waste—about the revised rules.

Hazardous waste inspectors in Ecology’s Nuclear Waste program also implement the Dangerous Waste Regulations. Additionally, Ecology staff in the Industrial Section—in the Solid Waste Management Program—work with refineries, pulp mills, and other large facilities on multimedia compliance, including dangerous waste. HWTR staff will work with these programs and others within Ecology to provide information and support for implementation and enforcement of the updated rules.

The following interim policies are **no longer in effect**, since the updated rules supersede them.

- Interim recalled airbag policy
(<https://apps.ecology.wa.gov/publications/SummaryPages/2004013.html>)
- Interim pharmaceutical waste policy
(<https://apps.ecology.wa.gov/publications/SummaryPages/0704024.html>)
- Interim nicotine vaping waste policy
(<https://apps.ecology.wa.gov/publications/SummaryPages/1904032.html>)

Informing People Affected by the Rule

Throughout the rulemaking process, Ecology encouraged stakeholders—like the public and those affected by the rulemaking—to participate and share their ideas. We held an informal comment period from November 22, 2019 to December 23, 2019, offered draft rule language, and presented potential changes during an informal webinar event. And on March 25, 2020, we proposed formal rule language, held another comment period, and hosted a hearing via webinar.

This rulemaking to adopt the federal hazardous waste pharmaceutical regulations was requested by stakeholders. We revised draft and proposed regulations to reflect the feedback we received throughout the rulemaking effort. This feedback included conversations and meetings with stakeholders—such as representatives of the health care industry, hazardous waste service providers, and permittees. We intend to continue communicating with and supporting these stakeholders.

Outreach and education efforts will focus on reaching dangerous waste generators and raising awareness of the revised rule. We are considering using a combination of traditional strategies and new technologies to spread the word:

- Provide training and tools to support the regulated community, supporting industries, the public, and all Ecology employees involved in the implementation this rule, especially regional staff.
- Develop social media posts.
- Provide guidance on Ecology’s website so that industry websites can link to accurate and up-to-date information.
- Provide tools and information to encourage and assist pharmaceutical waste generators in preventing waste generation.
- Encourage health care facilities to educate their staff about proper management of pharmaceutical waste and include it as part of their general training curriculum.
- Post the rule adoption materials (i.e., final rule language, response to comments, final regulatory analyses, and the rule implementation plan) on the rulemaking webpage for public access.
- Develop and maintain communication materials—such as guidance publications and posters—so that staff, management, and stakeholders are aware of opportunities for the successful management of pharmaceutical waste.

We will update Ecology’s dangerous waste management webpages so they reflect the most recent rule revisions. As the revised rule is implemented, we may develop focus sheets or other tools to provide a better understanding on how to comply with the new rules. Additionally,

Ecology publishes a periodical called Shoptalk—we will include information about the revised rules in the October 2020 issue, and in subsequent issues.

Immediately following rule adoption, we will inform the public and those affected by the rule by distributing email notices via our dangerous waste rulemaking listserv. We will also inform stakeholders using the interested parties list developed during this rulemaking. Overall, stakeholders include:

- Dangerous waste generators.
- Hazardous waste transporters.
- Dangerous waste treatment, storage, and disposal facilities.
- Attendees at rulemaking meetings and hearings that provided contact information.
- Anyone who commented on the rule.
- Individuals who requested information.
- Recipients on the listservs managed by Ecology.

As our hazardous waste inspectors visit dangerous waste generators and permitted dangerous waste treatment, storage, and disposal facilities, they will share information about the revised rules—especially rules that will affect them. Our inspectors and technical experts are available to provide technical assistance via email and phone.

A few years ago, we surveyed dangerous waste generators and asked their preferences for receiving information and education about the Dangerous Waste Regulations (for example, a Q&A on our website, downloadable guidance documents, Shoptalk articles, webinars, or in-person trainings). The results of the survey continue to help us respond to needs of the dangerous waste community.

In March 2020, Governor Inslee issued the Stay Home, Stay Healthy order explaining how Washingtonians can stay safe during the pandemic. In response to the order, Ecology and other state agencies suspended in-person meetings and events and found virtual solutions. For instance, the public hearing for this rulemaking was originally intended so that stakeholders could attend in person, but to maintain a COVID-19–safe event, we conducted the public hearing through an online webinar. We will continue to look for COVID-19–safe ways to inform and support our stakeholders as we implement the revised rule.

Promoting and Assisting Voluntary Compliance

We will connect with the people affected by the revised rule and encourage voluntary compliance. We will continue working with the regulated community and support their compliance efforts by providing technical assistance, educational videos, handouts, guidance and compliance options, and virtual training opportunities.

Our efforts to inform and support the regulated community will also promote voluntary compliance. In addition to compliance inspections, our toxics reduction staff works with businesses to find safer alternatives to toxic chemicals, improve efficiency, and conserve resources. Taking steps to eliminate dangerous waste at its source protects workers, the community, and the environment. Taking these steps early will improve the overall compliance and help businesses manage dangerous waste safely.

Ecology's inspectors, both compliance and toxics reduction engineers, will inform the regulated community about relevant changes during site visits, answer questions, direct people to useful information and resources on our webpages, and encourage feedback about recent rule revisions.

We will continue to promote voluntary compliance and will use tools and activities to increase our success. For instance, tools that have worked and may continue to promote compliance include:

- Maintaining a tracking system for comments and suggestions for improving regulations. The comments are made by Ecology staff and the regulated community, and we use them to inform each rulemaking.
- Conducting routine training of HWTR staff on new and amended regulations.
- Developing guidance documents for specific waste streams or industries.
- Hosting training webinars and creating educational videos.

Evaluating the Revised Rule

A key indicator on the effectiveness of the rule revisions is the feedback we receive during inspections, both compliance and toxics reduction. We use this feedback to evaluate if the rule changes are achieving their intended purpose.

Ecology staff—technical experts, inspectors, and managers—were involved throughout this rulemaking and will continue to be involved with implementation to ensure a consistent approach across the state. We will continue to monitor:

- How staff are implementing the rule consistently across the state.
- If people affected by the rule—generators, permittees, and waste haulers—are familiar with the revised rule and are in compliance.
- If Ecology’s educational materials—webpages, guidance, videos, posters, and handouts—are easy to use and understand and meet the needs of Ecology’s staff and the regulated community.
- Which additional tools are needed.
- What, if any, rule changes are needed.

Ecology staff may conduct a survey to assess satisfaction with changes to the rule, and to identify areas that need further attention. Ecology staff will also monitor impacts from rule revisions by gaining regional hazardous waste inspector input, as well as input from the regulated community, supporting industries, and the public.

After initial implementation of the revised rule, another indicator on the effectiveness of the rule is the number of violations or necessary enforcement actions. Our inspectors document violations and enforcement actions, and use this information to determine how else we can support the regulated community.

For example, a particular industry may include a large population of non-English speaking businesses, which are receiving many notices of violation and could benefit from a poster written in another language. We can use this information to develop tools to better support the proper management of dangerous waste.

Training and Informing Ecology Staff

Ecology employees who interact daily with dangerous waste generators, permittees, and hazardous waste transporters will be prepared to answer basic questions about the revised rule and should be able to direct people to our webpages and resources. It is imperative that Ecology employees are familiar with the revised requirements and the available education, outreach, compliance, and enforcement resources. We intend to update the following training materials for Ecology employees.

- HWTR employee training curriculum.
- HWTR Inspectors Manual.
- Inspector job tools and resources.

During this rulemaking effort, an Ecology staff member in each regional HWTR office and other Ecology programs acted as a conduit of information from the rulemaking team to their staff. We will continue to use these channels of communication to distribute new tools and gather feedback from inspections and communications with the regulated community.

List of Supporting Documents that may Need to be Developed or Revised

We provide many resources on our website and intend to update them so they reflect the most recent rule revisions. The following is a list of resources we intend to update, followed by a list of potential resources we want to develop. As we receive feedback from inspectors and the regulated community, we will improve existing tools and develop new ones.

- Resources to update:
 - Guide for Dangerous Pharmaceutical Waste Generators
 - Focus on Pharmaceutical Waste (Conditional Exclusion)
 - Flowchart – Pharmaceutical Waste Designation
 - Flowchart – Pharmaceutical Waste Management Overview
- Potential resources to develop would include guidance on:
 - Management standards for health care facilities managing creditable and non-creditable dangerous waste pharmaceuticals.
 - Management standards for reverse distributors.
 - Shipping creditable and non-creditable dangerous waste pharmaceuticals from health care facilities or reverse distributors.
 - Health care facility standards for small quantity generators.
 - Pharmaceutical management for long-term care facilities.
 - Sewer prohibitions for pharmaceuticals.
 - Management of controlled substances.
 - Residues in empty containers.
 - State-only pharmaceuticals.
 - Delisting of nicotine.
 - Conditional exclusion for law enforcement.

More Information and Ecology Contacts

For more information:

- Join the [HWTR rulemaking listserv](#).¹
- Visit the following websites.
 - [Ecology's Pharmaceuticals in the environment webpage](#)² (which includes new requirements, tools, and guidance).
 - [Ecology's Chapter 173-303 WAC webpage](#)³ (which includes rulemaking documents, timeline, and notices).
 - [Ecology's Waste & Toxics general information webpage](#).⁴
 - [Ecology's Preventing hazardous waste & pollution webpage](#).⁵
- Contact a HWTR specialist in your region.

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¹ <http://listserv.ecology.wa.gov/scripts/wa-ECOLOGY.exe?SUBED1=DW-RULES&A=1>

² <https://ecology.wa.gov/PharmaInTheEnviro>

³ <https://ecology.wa.gov/rulemaking/WAC173-303>

⁴ <https://ecology.wa.gov/Waste-Toxics>

⁵ <https://ecology.wa.gov/PreventWastePollution>