

Focus on: Pharmaceutical Waste Conditional Exclusion for Washington Law Enforcement



This conditional exclusion applies to state law enforcement agencies.

Contact information

Northwest Regional Office:

206-594-0000

Southwest Regional Office:

360-407-6300

Central Regional Office:

509-575-2490

Eastern Regional Office:

509-329-3400

ADA Accessibility

To request an ADA accommodation, contact Ecology by phone at 360-407-6700 or email at hwtrpubs@ecy.wa.gov, or visit ecology.wa.gov/accessibility. For Relay Service or TTY call 711 or 877-833-6341.

Washington state law enforcement agencies that send state-only dangerous waste pharmaceuticals (i.e., drugs or drug waste) for incineration are excluded from the dangerous waste regulations under certain conditions. The conditions of the exclusion can be found at [Chapter 173-303-071\(3\)\(nn\) WAC](#).¹

This option is available to law enforcement agencies because they are **not** eligible to use the special requirements for management of dangerous waste pharmaceuticals found in WAC 173-303-555.

This exclusion no longer applies to health care facilities, manufacturers of pharmaceuticals, or reverse distributors. These facilities must follow the special requirements for managing dangerous waste pharmaceuticals in [WAC 173-303-555](#).²

Who can use this conditional exclusion?

This conditional exclusion is **only** for evidence room drug waste from Washington state law enforcement agencies.

Applicability of the conditional exclusion

Under this conditional exclusion, Washington state law enforcement agencies may incinerate evidence room drug waste at an alternate combustion unit as long as it is state-only dangerous waste. These alternate combustion units are likely units your law enforcement agency is already using.

¹ <https://apps.leg.wa.gov/WAC/default.aspx?cite=173-303-071>

² <https://apps.leg.wa.gov/WAC/default.aspx?cite=173-303-555>

Find information about the dangerous waste regulations on our [dangerous waste guidance webpage](#).³



Figure 1: Pharmaceutical drugs from a bottle.

You must keep evidence room drug waste separate from the HHW take-back pharmaceuticals to take advantage of this conditional exclusion.



Figure 2: Pharmaceutical drug waste can be pills, powder, and liquids.

RCRA hazardous waste drugs are not eligible for this conditional exclusion.

Drugs that designate as a hazardous waste under the Resource Conservation and Recovery Act (RCRA)⁴ are not eligible for management under this exclusion. They must be disposed of as dangerous waste.

Pharmaceuticals collected by a take-back program must be managed as household hazardous waste (HHW).⁵

What are the benefits of this exclusion?

Non-RCRA evidence room drug waste you manage under this exclusion is no longer considered dangerous waste. Benefits to managing eligible drugs under this exclusion include:

- **Simplified management:**
 - No dangerous waste labeling.
 - No counting this waste towards your generator category.
 - No time limits for accumulation.
- **Alternate disposal:** You may send your non-RCRA drug waste to either a permitted municipal incinerator or a combustion unit that meets the conditions. This may result in a cost savings.
- **Transportation options:** You may transport the waste yourself. You are not required to use a hazardous waste transporter for drug waste that falls under this exclusion.

How do I know if my drug waste is eligible for the exclusion?

Step 1: Determine if the drug is a federally regulated hazardous waste under RCRA

Answer the questions below to determine if the drug is a hazardous waste under RCRA listings or characteristics. See our [designate your waste webpage](#)⁶ or the [dangerous waste regulations](#)⁷ for complete details.

If you answer **yes** to any of the following questions, the drug is a federally regulated hazardous waste and is not eligible for management under the conditional exclusion.

³ <https://ecology.wa.gov/DWGuidance>

⁴ RCRA defines the federal hazardous waste regulations.

⁵ Refer to WAC 173-303-071(3)(c): <https://apps.leg.wa.gov/WAC/default.aspx?cite=173-303-071>

⁶ <https://ecology.wa.gov/Designation>

⁷ <https://app.leg.wa.gov/WAC/default.aspx?cite=173-303>

If you cannot determine if the drug waste is RCRA-regulated, you can presume it is in lieu of analytical testing.



Figure 3: Pharmaceutical pills and powder

Some known [RCRA hazardous waste controlled substances](#)⁸ include:

- Fentanyl sublingual spray
- Chloral/chloral hydrate
- Testosterone gel
- Valium gel/injectable
- Phenobarbital



Figure 4: Many types of pharmaceutical pills designate as pharmaceutical drug waste.

- Is the drug a [discarded chemical product](#)?⁹
 - Compare any sole-active ingredients in the drug to the list of chemical products in [WAC 173-303-9903](#).¹⁰
 - Some possible controlled substances that may be listed hazardous waste include paraldehyde, chloral hydrate, and physostigmine.
- Is the drug is a [characteristic hazardous waste](#)?¹¹
 - Is it ignitable?
 - Ignitable wastes have a flash point less than 140 degrees Fahrenheit.
 - Solutions with more than 24 percent alcohol are considered ignitable.
 - Fentanyl sublingual spray is an example of an ignitable drug.
 - Is it corrosive?
 - Drugs with a pH less than or equal to 2 or a pH greater than or equal to 12.5 are corrosive.
 - Is it reactive?
 - Reactive drugs are unstable or can react violently with water or air.
 - Is it a characteristic toxic waste?
 - Characteristic toxic drug wastes contain certain compounds—including heavy metals—above set federal concentrations.

Federally regulated hazardous drug waste must be managed as dangerous waste and sent to a permitted hazardous waste facility if you are a regulated generator. If the drug is a controlled substance, you must first verify that the receiving facility is able to accept it.

If you answered **no** to all of the above questions, proceed to Step 2.

If you are unable to answer the above questions, you can either send the drug waste for analytical testing or presume it is a RCRA hazardous waste. You must manage this hazardous waste at a RCRA-permitted treatment, storage, and disposal facility.

⁸ <https://www.epa.gov/hwgenerators/frequent-questions-about-management-standards-hazardous-waste-pharmaceuticals-and#dea>

⁹ <https://apps.leg.wa.gov/WAC/default.aspx?cite=173-303-081>

¹⁰ <https://apps.leg.wa.gov/WAC/default.aspx?cite=173-303-9903>

¹¹ <https://apps.leg.wa.gov/WAC/default.aspx?cite=173-303-090>

Step 2: Determine if the drug waste is dangerous waste under state criteria

Drug waste that is not federally regulated hazardous waste must still be designated under our [state criteria](#)¹² to determine if it is dangerous waste for toxicity or persistence. You may either presume the drug waste is state-only dangerous waste or fully designate it according to WAC 173-303-100.

Presuming that the remaining drug waste is state-only dangerous waste could save your agency time and resources since most of the drug evidence waste is typically incinerated.

If you presume your non-RCRA regulated drug waste is state-only dangerous waste, it must be managed as dangerous waste or under this conditional exclusion.

If you choose to further [designate](#)¹³ your non-RCRA drug waste instead of presuming it is state-only dangerous waste, you must know the constituents of the drugs, their concentrations, and acute toxicities to book designate the waste. Otherwise, you must send a sample to an accredited lab for analysis.

Alternate combustion units allowed under the conditional exclusion

To take advantage of the conditional exclusion, you must send the waste to either:

- A permitted municipal solid waste incinerator.
- A controlled combustion unit that has a heat input rate greater than 250 million British thermal units per hour and a combustion zone temperature of 1500 degrees Fahrenheit. Most permitted medical waste incinerators and all RCRA permitted incinerators will meet these conditions.

On-site combustion units are not allowed.

Get more information

Contact your [regional Ecology office](#)¹⁴ and ask to speak to someone in the Hazardous Waste and Toxics Reduction Program.

¹² <https://app.leg.wa.gov/WAC/default.aspx?cite=173-303-100>

¹³ <https://ecology.wa.gov/StateOnlyDW>

¹⁴ <https://ecology.wa.gov/Contact>