

# Focus on: Pharmaceutical Waste Conditional Exclusion for Washington Law Enforcement



This conditional exclusion applies to state law enforcement

## 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

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Washington state law enforcement agencies that send state-only dangerous waste pharmaceuticals (such as drugs or drug waste) for incineration are excluded from the dangerous waste regulations under certain conditions. Read the exclusion's conditions at [Chapter 173-303-071\(3\)\(nn\) WAC](#).<sup>1</sup>

This option is available to law enforcement agencies because they **aren't** eligible to use the special requirements for management of dangerous waste pharmaceuticals found in [WAC 173-303-555](#).<sup>2</sup>

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](#).<sup>2</sup>

## 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 manage evidence room drug waste at an alternate permitted incinerator as long as it is state-only dangerous waste.

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

<sup>2</sup> <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](#).<sup>3</sup>



Figure 1: Pharmaceutical drugs from a bottle.

You must keep evidence room drug waste separate from the household hazardous waste (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 aren't eligible for this conditional exclusion.

You may not manage drugs that designate as a hazardous waste under the Resource Conservation and Recovery Act (RCRA)<sup>4</sup> under this exclusion. They must be disposed of as dangerous waste.

You must manage pharmaceuticals collected by a take-back program as household hazardous waste (HHW).<sup>5</sup>

### 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 controlled combustion unit that meets the conditions. This may reduce your costs.
- **Transportation options:** You may transport the waste yourself. You aren't required to use a hazardous waste transporter for drug waste that falls under this exclusion.

### Alternate combustion units allowed under the conditional exclusion

To take advantage of the conditional exclusion, you must dispose of the drugs by incineration at either:

- A permitted municipal solid waste incinerator, or
- 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. Some examples of controlled combustion units that may meet these conditions include:

- RCRA permitted incinerators.
- Medical waste incinerators.
- Nonmunicipal solid waste incinerators.
- Industrial furnaces.

<sup>3</sup> <https://ecology.wa.gov/DWGuidance>

<sup>4</sup> RCRA defines the federal hazardous waste regulations.

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

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<sup>6</sup> 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.

## 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](#)<sup>7</sup> or the [dangerous waste regulations](#)<sup>8</sup> for complete details.

- Is the drug a [discarded chemical product](#)?<sup>9</sup>
  - Compare any sole-active ingredients in the drug to the list of chemical products in [WAC 173-303-9903](#).<sup>10</sup>
  - Some possible controlled substances that may be listed hazardous waste include paraldehyde, chloral hydrate, and physostigmine.
- Is the drug a [characteristic hazardous waste](#)?<sup>11</sup>
  - 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.

<sup>6</sup> <https://www.epa.gov/hwgenerators/frequent-questions-about-management-standards-hazardous-waste-pharmaceuticals-and#dea>

<sup>7</sup> <https://ecology.wa.gov/Designation>

<sup>8</sup> <https://app.leg.wa.gov/WAC/default.aspx?cite=173-303>

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

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

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

If you answered **yes** to any of the previous questions, you have a federally regulated hazardous drug waste. These must be managed as [dangerous waste](#).<sup>12</sup> 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 previous questions, proceed to Step 2.

If you aren't able to answer the previous questions, you can either send the drug waste for analytical testing or presume it is a RCRA hazardous waste. You must manage hazardous waste at a RCRA-permitted treatment, storage, and disposal facility.

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

If your drug waste isn't federally regulated hazardous waste, you still must designate it under our [state criteria](#)<sup>13</sup> to determine if it's 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](#).<sup>13</sup>

If you presume your non-RCRA regulated drug waste is state-only dangerous waste, then:

- You must manage it as dangerous waste or under this conditional exclusion.
- You could save time and resources since most of the drug evidence waste is typically incinerated.

If you fully [designate](#)<sup>14</sup> your non-RCRA regulated drug waste, then:

- You must know the constituents of the drugs, their concentrations, and their acute toxicities to book designate the waste, or
- You must send a sample to an accredited lab for analysis.

**Get more information**

Contact your [region's Ecology office](#)<sup>15</sup> and ask to speak to someone in the Hazardous Waste and Toxics Reduction Program.

**Department of Ecology Regional Offices**



- Southwest Regional Office: 360-407-6300**  
Counties: Clallam, Clark, Cowlitz, Grays Harbor, Jefferson, Mason, Lewis, Pacific, Pierce, Skamania, Thurston, Wahkiakum
- Northwest Regional Office: 206-594-0000**  
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<sup>12</sup> <https://ecology.wa.gov/Waste-Toxics/Business-waste/Manage-your-waste>

<sup>13</sup> <https://app.leg.wa.gov/WAC/default.aspx?cite=173-303-100>

<sup>14</sup> <https://ecology.wa.gov/StateOnlyDW>

<sup>15</sup> <https://ecology.wa.gov/Contact>