WAC 173-303-016  Identifying solid waste.  (1) Purpose and applicability.
   (a) The purpose of this section is to identify those materials that are and are not solid wastes.
   (b)(i) The definition of solid waste contained in this section applies only to wastes that also are dangerous for purposes of the regulations implementing chapter 70.105 RCW. For example, it does not apply to materials (such as nondangerous scrap, paper, textiles, or rubber) that are not otherwise dangerous wastes and that are recycled.
   (ii) This section identifies only some of the materials which are solid wastes and dangerous wastes under chapter 70.105 RCW. A material which is not defined as a solid waste in this section, or is not a dangerous waste identified or listed in this section, is still a solid waste and a dangerous waste for purposes of these sections if reason and authority exists under chapter 70.105 RCW and WAC 173-303-960. Within the constraints of chapter 70.105 RCW, this includes any material that: Is accumulated, used, reused, or handled in a manner that poses a threat to public health or the environment; or, due to the dangerous constituent(s) in it, when used or reused would pose a threat to public health or the environment.
   (c) Certain materials are solid wastes but are excluded from the requirements of this chapter by WAC 173-303-071 and 173-303-073.

(2) The following terms are used and have the meanings as defined in WAC 173-303-040:
   (a) Boiler
   (b) By-product
   (c) Incinerator
   (d) Industrial furnace
   (e) Reclaim
   (f) Recover
   (g) Recycle
   (h) Used or reused (see reuse or use)
   (i) Sludge
   (j) Scrap metal
   (k) Spent material
   (l) Excluded scrap metal
   (m) Processed scrap metal
   (n) Home scrap metal
   (o) Prompt scrap metal

(3) Definition of solid waste.
   (a) A solid waste is any discarded material that is not excluded by WAC 173-303-017(2) or that is not excluded by variance granted under WAC 173-303-017(5).
   (b) A discarded material is any material that is:
      (i) Abandoned, as explained in subsection (4) of this section; or
      (ii) Recycled, as explained in subsection (5) of this section; or
      (iii) Considered inherently waste-like, as explained in subsection (6) of this section. Persons registering micronutrient or waste-derived fertilizers under chapter 15.54 RCW must submit information required by the department to indicate compliance with this chapter. The required minimum information is described in WAC 173-303-505; or
      (iv) A military munition identified as a solid waste at WAC 173-303-578(2).
(4) Materials are solid waste if they are abandoned by being:
   (a) Disposed of; or
   (b) Burned or incinerated; or
   (c) Accumulated, stored, or treated (but not recycled) before or in lieu of being abandoned by being disposed of, burned, or incinerated; or
   (d) Sham recycled, as defined in subsection (8) of this section.
(5) Materials are solid wastes if they are recycled—or accumulated, stored, or treated before recycling—as specified in (a) through (d) of this subsection.
   (a) Used in a manner constituting disposal. Materials noted with a "**" in column 1 of Table 1 are solid wastes when they are:
      (i)(A) Applied to or placed on the land in a manner that constitutes disposal; or
      (B) Used to produce products that are applied to or placed on the land or are otherwise contained in products that are applied to or placed on the land (in which cases the product itself remains a solid waste).
      (ii) However, commercial chemical products listed in WAC 173-303-9903 or which exhibit any of the criteria or characteristics listed in WAC 173-303-090 or 173-303-100 are not solid wastes if they are applied to the land and that is their ordinary manner of use.
   (b) Burning for energy recovery. Materials noted with a "**" in column 2 of Table 1 are solid wastes when they are:
      (i) Burned to recover energy;
      (ii) Used to produce a fuel or are otherwise contained in fuels (in which cases the fuel itself remains a solid waste).
      However, commercial chemical products listed in WAC 173-303-9903 or which exhibit any of the criteria or characteristics listed in WAC 173-303-090 or 173-303-100 are not solid wastes if they are themselves fuels.
   (c) Reclaimed. Materials noted with a "**" in column 3 of Table 1 are solid wastes when reclaimed.
   (d)(i) Accumulated speculatively. Materials noted with a "**" in column 4 of Table 1 are solid wastes when accumulated speculatively.
      (ii) A material is "accumulated speculatively" if it is accumulated before being recycled. A material is not accumulated speculatively, however, if the person accumulating it can show that the material is potentially recyclable and has a feasible means of being recycled; and that—during the calendar year (commencing on January 1)—the amount of material that is recycled, or transferred to a different site for recycling, equals at least seventy-five percent by weight or volume of the amount of that material accumulated at the beginning of the period. Materials must be placed in a storage unit with a label indicating the first date that the material began to be accumulated. If placing a label on the storage unit is not practical, the accumulation period must be documented through an inventory log or other appropriate method. In calculating the percentage of turnover, the seventy-five percent requirement is to be applied to each material of the same type (e.g., slags from a single smelting process) that is recycled in the same way (i.e., from which the same material is recovered or that is used in the same way). Materials accumulating in units that would be exempt from regulation under WAC 173-303-071 (3)(n) are not to be included in making the calculation. (Materials that are already defined as solid wastes also are not to be included in making the cal-
culation.) Materials are no longer in this category once they are removed from accumulation for recycling, however.

### TABLE 1

<table>
<thead>
<tr>
<th>Use constituting disposal</th>
<th>Energy recovery/fuel</th>
<th>Reclamation</th>
<th>Speculative accumulation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Spent materials</td>
<td>(*)</td>
<td>(*)</td>
<td>(*)</td>
</tr>
<tr>
<td>Commercial chemical products</td>
<td>(*)</td>
<td>(*)</td>
<td></td>
</tr>
<tr>
<td>By-products listed in WAC 173-303-9904</td>
<td>(*)</td>
<td>(*)</td>
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</tr>
<tr>
<td>Sludges listed in WAC 173-303-9904</td>
<td>(*)</td>
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<td>(*)</td>
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<tr>
<td>By-products exhibiting a characteristic(^1) or criteria(^2)</td>
<td>(*)</td>
<td>(*)</td>
<td></td>
</tr>
<tr>
<td>Sludges exhibiting a characteristic(^1) or criteria(^2)</td>
<td>(*)</td>
<td>(*)</td>
<td></td>
</tr>
<tr>
<td>Scrap metal that is not excluded under WAC 173-303-071 (3)(ff)</td>
<td>(*)</td>
<td>(*)</td>
<td>(*)</td>
</tr>
</tbody>
</table>

Note: The terms "spent materials," "sludges," "by-products," "scrap metal" and "processed scrap metal" are defined in WAC 173-303-040.

1 The characteristics of dangerous waste are described in WAC 173-303-090.
2 The dangerous waste criteria are described in WAC 173-303-100.

(6) Inherently waste-like materials. The following materials are solid wastes when they are recycled in any manner:

(a) Dangerous Waste Nos. F020, F021 (unless used as an ingredient to make a product at the site of generation), F022, F023, F026, and F028.

(b) Secondary materials fed to a halogen acid furnace that exhibit a characteristic of a dangerous waste or are listed as a dangerous waste as defined in WAC 173-303-090 or 173-303-080 through 173-303-082, except for brominated material that meets the following criteria:

(i) The material must contain a bromine concentration of at least 45%; and

(ii) The material must contain less than a total of 1% of toxic organic compounds listed in WAC 173-303-9905; and

(iii) The material is processed continually on site in the halogen acid furnace via direct conveyance (hard piping).

(c) The department will use the following criteria to add wastes to (a) of this subsection:

(i)(A) The materials are ordinarily disposed of, burned, or incinerated; or

(iB) The materials contain toxic constituents listed in WAC 173-303-9905 and these constituents are not ordinarily found in raw materials or products for which the materials substitute (or are found
in raw materials or products in smaller concentrations) and are not used or reused during the recycling process; and

(ii) The material may pose a substantial hazard to human health or the environment when recycled.

(7) Documentation of claims that materials are not solid wastes or are conditionally exempt from regulation. Respondents in actions to enforce regulations implementing chapter 70.105 RCW who raise a claim that a certain material is not a solid waste, or is conditionally exempt from regulation, must demonstrate that there is a known market or disposition for the material, and that they meet the terms of the exclusion or exemption. In doing so, they must provide appropriate documentation (such as contracts showing that a second person uses the material as an ingredient in a production process) to demonstrate that the material is not a waste, or is exempt from regulation. In addition, owners or operators of facilities claiming that they actually are recycling materials must show that they have the necessary equipment to do so.

(8) Sham recycling. A material found to be sham recycled is considered discarded and a solid waste. Sham recycling is recycling that is not legitimate recycling as defined in WAC 173-303-019.

AMENDATORY SECTION (Amending WSR 09-14-105, filed 6/30/09, effective 7/31/09)

WAC 173-303-017 Recycling processes involving solid waste. (1) The purpose of this section is to identify those materials that are and are not solid wastes when recycled. Certain materials, as described in subsection (2) of this section, would not typically be considered to involve waste management and are exempt from the requirements of this chapter. All recycling processes not exempted by subsection (2) of this section are subject to the recycling requirements of WAC 173-303-120.

(2) General categories of materials that are not solid waste when recycled.

(a) Except as provided in subsection (3) of this section, materials are not solid wastes when they can be shown to be recycled by being:

(i) Used or reused as ingredients in an industrial process to make a product provided the materials are not being reclaimed; or

(ii) Used or reused as effective substitutes for commercial products; or

(iii) Returned to the original process from which they are generated, without first being reclaimed or land disposed. The material must be returned as a substitute for feedstock materials. In cases where the original process to which the material is returned is a secondary process, the materials must be managed such that there is no placement on the land.

(b) Except as provided in subsection (3) of this section, the department has determined that the following materials when used as described are not solid wastes:

(i) Pulping liquors (e.g., black liquor) that are reclaimed in a pulping liquor recovery furnace and then reused in the pulping process;
(ii) Spent pickle liquor which is reused in wastewater treatment at a facility holding a national pollutant discharge elimination system (NPDES) permit, or which is being accumulated, stored, or treated before such reuse;

(iii) Spent sulfuric acid used to produce virgin sulfuric acid provided it is not accumulated speculatively as defined in WAC 173-303-016 (5)(d)(ii).

(3) The following materials are solid wastes, even if the recycling involves use, reuse, or return to the original process (as described in subsection (2)(a) of this section):

(a) Materials used in a manner constituting disposal, or used to produce products that are applied to the land; or

(b) Materials burned for energy recovery, used to produce a fuel, or contained in fuels; or

(c) Materials accumulated speculatively as defined in WAC 173-303-016 (5)(d)(ii); or

(d) Materials listed in WAC 173-303-016(6); or

(e) Any materials that the department determines are being accumulated, used, reused or handled in a manner that poses a threat to public health or the environment.

(4) Documentation of claims that materials are not solid wastes or are conditionally exempt from regulation. Respondents in actions to enforce regulations implementing chapter 70.105 RCW who raise a claim that a certain material is not a solid waste, or is conditionally exempt from regulation, must demonstrate that there is a known market or disposition for the material, and that they meet the terms of the exclusion or exemption. In doing so, they must provide appropriate documentation (such as contracts showing that a second person uses the material as an ingredient in a production process) to demonstrate that the material is not a waste, or is exempt from regulation. In addition, owners or operators of facilities claiming that they actually are recycling materials must show that they have the necessary equipment to do so.

(5) Variances from classification as a solid waste.

(a) In accordance with the standards and criteria in (b) of this subsection and the procedures in subsection (7) of this section, the department may determine on a case-by-case basis that the following recycled materials are not solid wastes:

(i) Materials that are accumulated speculatively without sufficient amounts being recycled (as defined in WAC 173-303-016 (5)(d)(ii));

(ii) Materials that are reclaimed and then reused within the original production process in which they were generated;

(iii) Materials that have been reclaimed but must be reclaimed further before the materials are completely recovered;

(iv) Materials that are reclaimed in a continuous process;

(v) Materials that are indistinguishable in all relevant aspects from a product or intermediate; and

(vi) State-only dangerous materials (not regulated as hazardous wastes (defined in WAC 173-303-040) by EPA) which serve as an effective substitute for a commercial product or raw material.

(b) Standards and criteria for variances from classification as a solid waste.

(i) The department may grant requests for a variance from classifying as a solid waste those materials that are accumulated speculatively without sufficient amounts being recycled if the applicant demonstrates that sufficient amounts of the material will be recycled or
transferred for recycling in the following year. If a variance is
granted, it is valid only for the following year, but can be renewed,
on an annual basis, by filing a new application. The department's de-
cision will be based on the following criteria:

(A) The manner in which the material is expected to be recycled,
when the material is expected to be recycled, and whether this expec-
ted disposition is likely to occur (for example, because of past prac-
tice, market factors, the nature of the material, or contractual ar-
rangements for recycling);

(B) The reason that the applicant has accumulated the material
for one or more years without recycling seventy-five percent of the
volume accumulated at the beginning of the year;

(C) The quantity of material already accumulated and the quantity
expected to be generated and accumulated before the material is recy-
cled;

(D) The extent to which the material is handled to minimize loss;

(E) Other relevant factors.

(ii) The department may grant requests for a variance from clas-
sifying as a solid waste those materials that are reclaimed and then
reused as feedstock within the original production process in which
the materials were generated if the reclamation operation is an essen-
tial part of the production process. This determination will be based
on the following criteria:

(A) How economically viable the production process would be if it
were to use virgin materials, rather than reclaimed materials;

(B) The extent to which the material is handled before reclama-
tion to minimize loss;

(C) The time periods between generating the material and its rec-
lamation, and between reclamation and return to the original primary
production process;

(D) The location of the reclamation operation in relation to the
production process;

(E) Whether the reclaimed material is used for the purpose for
which it was originally produced when it is returned to the original
process, and whether it is returned to the process in substantially
its original form;

(F) Whether the person who generates the material also reclaims
it;

(G) Other relevant factors.

(iii) The department may grant requests for a variance from clas-
sifying as a solid waste those hazardous secondary materials that have
been partially reclaimed, but must be reclaimed further before recov-
ery is completed ((if, after initial reclamation, the resulting mate-
rial is commodity-like (even though it is not yet a commercial prod-
uct, and has to be reclaimed further). This determination will be
based on the following factors:

(A) The degree of processing the material has undergone and the
degree of further processing that is required;

(B) The value of the material after it has been reclaimed;

(C) The degree to which the reclaimed material is like an analo-
gous raw material;

(D) The extent to which an end market for the reclaimed material
is guaranteed;

(E) The extent to which the reclaimed), if the partial reclama-
tion has produced a commodity-like material. A determination that a
partially reclaimed hazardous secondary material for which the var-
iance is sought is commodity-like will be based on whether the materi-
al is legitimately recycled as specified in WAC 173-303-019 and on whether all of the following decision criteria are satisfied:

(A) Whether the degree of partial reclamation the material has undergone is substantial as demonstrated by using a partial reclamation process other than the process that generated the dangerous waste;

(B) Whether the partially reclaimed material has sufficient economic value that it will be purchased for further reclamation;

(C) Whether the partially reclaimed material is a viable substitute for a product or intermediate produced from virgin or raw materials which is used in subsequent production steps;

(D) Whether there is a market for the partially reclaimed material as demonstrated by known customer(s) who are further reclaiming the material (e.g., records of sales and/or contracts and evidence of subsequent use, such as bills of lading);

(E) Whether the partially reclaimed material is handled to minimize loss; and

(F) Other relevant factors.

(iv) The department may grant requests for a variance from classifying as a solid waste those materials that serve as an effective substitute for a commercial product or raw material, when such material is not regulated as hazardous waste (defined in WAC 173-303-040) by EPA, if the materials are recycled in a manner such that they more closely resemble products or raw materials rather than wastes. This determination will be based on the following factors:

(A) The effectiveness of the material for the claimed use;

(B) The degree to which the material is like an analogous raw material or product;

(C) The extent to which the material is handled to minimize loss or escape to the environment;

(D) The extent to which an end market for the reclaimed material is guaranteed;

(E) The time period between generating the material and its recycling;

(F) Other factors as appropriate.

(6) Variance to be classified as a boiler.

In accordance with the standards and criteria in WAC 173-303-040 (definition of "boiler"), and the procedures in subsection (7) of this section, the department may determine on a case-by-case basis that certain enclosed devices using controlled flame combustion are boilers, even though they do not otherwise meet the definition of boiler contained in WAC 173-303-040, after considering the following criteria:

(a) The extent to which the unit has provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases; and

(b) The extent to which the combustion chamber and energy recovery equipment are of integral design; and

(c) The efficiency of energy recovery, calculated in terms of the recovered energy compared with the thermal value of the fuel; and

(d) The extent to which exported energy is utilized; and

(e) The extent to which the device is in common and customary use as a "boiler" functioning primarily to produce steam, heated fluids, or heated gases; and

(f) Other factors, as appropriate.

(7) Procedures for variances from classification as a solid waste or to be classified as a boiler.
The department will use the following procedures in evaluating applications for variances from classification as a solid waste or applications to classify particular enclosed controlled flame combustion devices as boilers:

(a) The applicant must apply to the department for the variance. The application must address the relevant criteria contained in subsection (5) (b) or (6) of this section, as applicable.

(b) The department will evaluate the application and issue a draft public notice tentatively granting or denying the application. Notification of this tentative decision will be provided by newspaper advertisement and radio broadcast in the locality where the recycler is located. The department will accept comment on the tentative decision for thirty days, and may also hold a public hearing upon request or at its discretion. The department will issue a final decision after receipt of comments and after the hearing (if any).

(c) In the event of a change in circumstances that affect how a material meets the relevant criteria contained in subsection (5) or (6) of this section, as applicable, upon which a variance has been based, the applicant must send a description of the change in circumstances to the department. The department may issue a determination that the material continues to meet the relevant criteria of the variance or may require the facility to reapply for the variance.

(d) Variances shall be effective for a fixed term not to exceed ten years. No later than six months prior to the end of this term, facilities must reapply for a variance. If a facility reapply for a variance within six months, the facility may continue to operate under an expired variance until receiving a decision on their reapplication from the department.

(e) Facilities receiving a variance must provide notification as required by subsection (8) of this section.

(8) Notification requirements for materials managed under variances from classification as a solid waste.

(a) Facilities managing hazardous secondary materials under WAC 173-303-017(5) must send a notification prior to operating under the regulatory provision and by March 1st of each even-numbered year thereafter to the department using ecology's site identification form that includes the following information:

(i) The name, address, and EPA/state identification number (if applicable) of the facility;
(ii) The name and telephone number of a contact person;
(iii) The NAICS code of the facility;
(iv) The regulation under which the hazardous secondary materials will be managed;
(v) When the facility began or expects to begin managing the hazardous secondary materials in accordance with the regulation;
(vi) A list of hazardous secondary materials that will be managed according to the regulation (reported as the dangerous waste numbers that would apply if the hazardous secondary materials were managed as dangerous wastes);
(vii) The quantity of each hazardous secondary material to be managed annually; and
(viii) The certification (included in ecology's site identification form) signed and dated by an authorized representative of the facility.

(b) If a facility managing hazardous secondary materials under this section has submitted a notification, but then subsequently stops managing those materials in accordance with the regulation(s) listed
above, the facility must notify the department within thirty days using ecology's site identification form. For purposes of this section, a facility has stopped managing hazardous secondary materials under this section if the facility no longer generates, manages, or reclaims materials under the regulation(s) above and does not expect to manage any amount of hazardous secondary materials under this section for at least one year.

NEW SECTION

WAC 173-303-019 Legitimacy criteria for recycling of hazardous secondary materials. Recycling hazardous secondary materials for the purpose of exclusion or exemption from the dangerous waste regulations must be legitimate. Hazardous secondary material that is not legitimately recycled is discarded material and a solid waste. In determining if their recycling is legitimate, persons must address all the requirements of this section.

(1) Legitimate recycling must involve a hazardous secondary material that provides a useful contribution to the recycling process or to a product or intermediate of the recycling process. The hazardous secondary material provides a useful contribution if it:
   (a) Contributes valuable ingredients to a product or intermediate; or
   (b) Replaces a catalyst or carrier in the recycling process; or
   (c) Is the source of a valuable constituent recovered in the recycling process; or
   (d) Is recovered or regenerated by the recycling process; or
   (e) Is used as an effective substitute for a commercial product.

(2) The recycling process must produce a valuable product or intermediate. The product or intermediate is valuable if it is:
   (a) Used by the recycler or the generator as an effective substitute for a commercial product or as an ingredient or intermediate in an industrial process; or
   (b) Sold to a third party.

(3) The generator, recycler, or third party must manage the hazardous secondary material as a valuable commodity when it is under their control. Where there is an analogous raw material, the hazardous secondary material must be managed, at a minimum, in a manner consistent with the management of the raw material or in an equally protective manner. Where there is no analogous raw material, the hazardous secondary material must be contained. Hazardous secondary materials that are released to the environment and are not recovered immediately are discarded.

(4) The product of the recycling process must be comparable to a legitimate product or intermediate:
   (a) Where there is an analogous product or intermediate, the product of the recycling process is comparable to a legitimate product or intermediate if:
      (i) The product of the recycling process does not exhibit a dangerous waste characteristic (as defined in WAC 173-303-090) or meet any dangerous waste criteria (as found in WAC 173-303-100) that analogous products do not exhibit; and
      (ii) The concentrations of any dangerous constituents found in WAC 173-303-9905 that are in the product or intermediate are at levels
that are comparable to or lower than those found in analogous products, or at levels that meet widely recognized commodity standards and specifications, in the case where the commodity standards and specifications include levels that specifically address those dangerous constituents.

(b) Where there is no analogous product, the product of the recycling process is comparable to a legitimate product or intermediate if:

(i) The product of the recycling process is a commodity that meets widely recognized commodity standards and specifications (e.g., commodity specification grades for common metals); or

(ii) The hazardous secondary materials being recycled are returned to the original process or processes from which they were generated to be reused (e.g., closed loop recycling).

(c) If the product of the recycling process has levels of dangerous constituents (found in WAC 173-303-9905) that are not comparable to or unable to be compared to a legitimate product or intermediate per subsection (1)(d)(i) or (ii) of this section, the recycling still may be shown to be legitimate if it meets the following specified requirements. The person performing the recycling must conduct the necessary assessment and prepare documentation showing why the recycling is, in fact, still legitimate.

(i) The recycling can be shown to be legitimate based on:

(A) Lack of exposure from toxics in the product;

(B) Lack of bioavailability of toxics in the product; or

(C) Other relevant considerations which show that the recycled product does not contain levels of dangerous constituents that pose a significant human health or environmental risk.

(ii) The documentation must include a certification statement that the recycling is legitimate and must be maintained on site for five years after the recycling operation has ceased.

(ii) The person performing the recycling must notify the department of this activity using ecology's site identification form.

AMENDATORY SECTION (Amending WSR 09-14-105, filed 6/30/09, effective 7/31/09)

WAC 173-303-030 Abbreviations. The following abbreviations are used in this regulation.

APTI - Association for Preservation Technology International
ASTM - American Society for Testing Materials
APHA - American Public Health Association
CAMU - corrective action management unit
CDC - Center for Disease Control
C.F.R. - Code of Federal Regulations
DOT - Department of Transportation
°C - degrees Celsius
DRE - destruction and removal efficiency
DW - dangerous waste
DWS - drinking water standards of the Safe Drinking Water Act
EHW - extremely hazardous waste
EP - extraction procedure
EPA - Environmental Protection Agency
AMENDATORY SECTION  (Amending WSR 15-01-123, filed 12/18/14, effective 1/18/15)

WAC 173-303-040 Definitions. When used in this chapter, the following terms have the meanings given below.

Note: The list of defined terms in this section does not contain all defined terms used in chapter 173-303 WAC.

"Aboveground tank" means a device meeting the definition of "tank" in this section and that is situated in such a way that the entire surface area of the tank is completely above the plane of the adjacent surrounding surface and the entire surface area of the tank (including the tank bottom) is able to be visually inspected.

"Accumulation" refers to the definition of "storage."

"Active life" of a facility means the period from the initial receipt of dangerous waste at the facility until the department receives certification of final closure.

"Active portion" means that portion of a facility which is not a closed portion, and where dangerous waste recycling, reuse, reclamation, transfer, treatment, storage or disposal operations are being or have been conducted after:
The effective date of the waste's designation by 40 C.F.R. Part 261; and
March 10, 1982, for wastes designated only by this chapter and not designated by 40 C.F.R. Part 261. (See also "closed portion" and "inactive portion.")

"Active range" means a military range that is currently in service and is being regularly used for range activities.

"Acute hazardous waste" means dangerous waste sources (listed in WAC 173-303-9904) F020, F021, F022, F023, F026, or F027, and discarded chemical products (listed in WAC 173-303-9903) that are identified with a dangerous waste number beginning with a "P", including those wastes mixed with source, special nuclear, or by-product material subject to the Atomic Energy Act of 1954. The abbreviation "AHW" will be used in this chapter to refer to those dangerous and mixed wastes which are acute hazardous wastes. Note - The terms acute and acutely are used interchangeably.

"Ampule" means an airtight vial made of glass, plastic, metal, or any combination of these materials.

"Ancillary equipment" means any device including, but not limited to, such devices as piping, fittings, flanges, valves, and pumps, that is used to distribute, meter, or control the flow of dangerous waste from its point of generation to a storage or treatment tank(s), between dangerous waste storage and treatment tanks to a point of disposal ((on-site)) on site, or to a point of shipment for disposal ((off-site)) off site.

"Aquifer" means a geologic formation, group of formations, or part of a formation capable of yielding a significant amount of groundwater to wells or springs.

"Authorized representative" means the person responsible for the overall operation of a generator site, facility, or an operational unit (e.g., plant manager or superintendent).

"Batch" means any waste which is generated less frequently than once a month.

"Battery" means a device consisting of one or more electrically connected electrochemical cells which is designed to receive, store, and deliver electric energy. An electrochemical cell is a system consisting of an anode, cathode, and an electrolyte, plus such connections (electrical and mechanical) as may be needed to allow the cell to deliver or receive electrical energy. The term battery also includes an intact, unbroken battery from which the electrolyte has been removed.

"Berm" means the shoulder of a dike.

"Boiler" means an enclosed device using controlled flame combustion and having the following characteristics:

The unit must have physical provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases; and

The unit's combustion chamber and primary energy recovery section(s) must be of integral design. To be of integral design, the combustion chamber and the primary energy recovery section(s) (such as waterwalls and superheaters) must be physically formed into one manufactured or assembled unit. A unit in which the combustion chamber and the primary energy recovery section(s) are joined only by ducts or connections carrying flue gas is not integrally designed; however, secondary energy recovery equipment (such as economizers or air preheaters) need not be physically formed into the same unit as the combustion chamber and the primary energy recovery section. The following
units are not precluded from being boilers solely because they are not of integral design: Process heaters (units that transfer energy directly to a process stream), and fluidized bed combustion units; and

While in operation, the unit must maintain a thermal energy recovery efficiency of at least sixty percent, calculated in terms of the recovered energy compared with the thermal value of the fuel; and

The unit must export and utilize at least seventy-five percent of the recovered energy, calculated on an annual basis. In this calculation, no credit will be given for recovered heat used internally in the same unit. (Examples of internal use are the preheating of fuel or combustion air, and the driving of induced or forced draft fans or feedwater pumps); or

The unit is one which the department has determined, on a case-by-case basis, to be a boiler, after considering the standards in WAC 173-303-017(6).

"By-product" means a material that is not one of the primary products of a production process and is not solely or separately produced by the production process. Examples are process residues such as slags or distillation column bottoms. The term does not include a coproduct that is produced for the general public's use and is ordinarily used in the form it is produced by the process.

"Carbon regeneration unit" means any enclosed thermal treatment device used to regenerate spent activated carbon.

"Carcinogenic" means a material known to contain a substance which has sufficient or limited evidence as a human or animal carcinogen as listed in both IARC and either IRIS or HEAST.

"Cathode ray tube" or "CRT" means a vacuum tube, composed primarily of glass, which is the visual or video display component of an electronic device. A used, intact CRT means a CRT whose vacuum has not been released. A used, broken CRT means glass removed from its housing or casing whose vacuum has been released.

"Central accumulation area" means any on-site dangerous waste accumulation area subject to either WAC 173-303-200 (large quantity generators) or WAC 173-303-172 (medium quantity generators). A central accumulation area at an eligible academic entity that chooses to operate under WAC 173-303-235 must also comply with WAC 173-303-235(12) when accumulating unwanted material and/or dangerous waste.

"Chemical agents and chemical munitions" are defined as in 50 U.S.C. section 1521(j)(1).

"Cleanup-only facility" means a site, including any contiguous property owned or under the control of the owner or operator of the site, where the owner or operator is or will be treating, storing, or disposing of remediation waste, including dangerous remediation waste, and is not, has not and will not be treating, storing or disposing of dangerous waste that is not remediation waste. A cleanup-only facility is not a "facility" for purposes of corrective action under WAC 173-303-646.

"Closed portion" means that portion of a facility which an owner or operator has closed, in accordance with the approved facility closure plan and all applicable closure requirements.

"Closure" means:

- The requirements placed upon all recycling, used oil, and TSD facilities, plus some generators, and some transporters to ensure that all such facilities are closed in an acceptable manner (see also "post-closure"); and
Once taken out of service, the proper cleaning up and/or decontaminating of a dangerous waste management unit or a recycling unit and any areas affected by releases from the unit.

"College/university" see WAC 173-303-235.

"Commercial chemical product or manufacturing chemical intermediate" refers to a chemical substance which is manufactured or formulated for commercial or manufacturing use which consists of the commercially pure grade of the chemical, any technical grades of the chemical that are produced or marketed, and all formulations in which the chemical is the sole active ingredient.

"Commercial fertilizer" means any substance containing one or more recognized plant nutrients and which is used for its plant nutrient content and/or which is designated for use or claimed to have value in promoting plant growth, and includes, but is not limited to, limes, gypsum, and manipulated animal manures and vegetable compost. The commercial fertilizer must be registered with the state or local agency regulating the fertilizer in the locale in which the fertilizer is being sold or applied.

"Compliance procedure" means any proceedings instituted pursuant to the Hazardous Waste Management Act, chapter 70.105 RCW, and Hazardous waste fees, chapter 70.105A RCW, or regulations issued under authority of state law, which seeks to require compliance, or which is in the nature of an enforcement action or an action to cure a violation. A compliance procedure includes a notice of intention to terminate a permit pursuant to WAC 173-303-830(5), or an application in the state superior court for appropriate relief under the Hazardous Waste Management Act. A compliance procedure is considered to be pending from the time a notice of violation or of intent to terminate a permit is issued or judicial proceedings are begun, until the department notifies the owner or operator in writing that the violation has been corrected or that the procedure has been withdrawn or discontinued.

"Component" means either the tank or ancillary equipment of a tank system.

"Constituent" or "dangerous waste constituent" means a chemically distinct component of a dangerous waste stream or mixture.

"Contained" means held in a unit that meets the following criteria:

- The unit is in good condition with no leaks or other continuing or intermittent unpermitted releases of hazardous secondary materials to the environment, and is designed, as appropriate for the hazardous secondary materials, to prevent releases of hazardous secondary materials to the environment. Unpermitted releases are releases that are not covered by a permit (such as a permit to discharge to water or air) and may include, but are not limited to, releases through surface transport by precipitation runoff, releases to soil and groundwater, wind-blown dust, fugitive air emissions, and catastrophic unit failures;
- The unit is properly labeled or otherwise has a system (such as a log book) to immediately identify the hazardous secondary materials in the unit; and
- The unit holds hazardous secondary materials that are compatible with other hazardous secondary materials placed in the unit and is compatible with the materials used to construct the unit and addresses any potential risks of fires or explosions.
- Hazardous secondary materials in units that meet the applicable requirements of WAC 173-303-280 through 173-303-395 or 173-303-400 are presumptively contained.
"Container" means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.

"Containment building" means a hazardous waste management unit that is used to store or treat hazardous waste under the provisions of WAC 173-303-695.

"Contingency plan" means a document setting out an organized, planned, and coordinated course of action to be followed in case of a fire, explosion, or release of dangerous waste or dangerous waste constituents which could threaten human health or environment.

"Contract" means the written agreement signed by the department and the state operator.

"Control" means, for the purposes of WAC 173-303-171 (1)(e) and 173-303-200(15), the power to direct the policies of the generator, whether by the ownership of stock or voting rights. Contractors, consultants, and transporters who operate generator facilities on behalf of a different person, as defined in this section, shall not be deemed to "control" such generators.

"Corrosion expert" means a person who, by reason of their knowledge of the physical sciences and the principles of engineering and mathematics, acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. Such a person must be certified as being qualified by the National Association of Corrosion Engineers (NACE) or be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control on buried or submerged metal piping systems and metal tanks.

"CRT collector" means a person who receives CRTs for recycling, repair, resale, or donation.

"CRT exporter" means any person in the United States who initiates a transaction to send used CRTs outside the United States or its territories for recycling or reuse, or any intermediary in the United States arranging for such export.

"CRT glass manufacturer" means an operation or part of an operation that uses a furnace to manufacture CRT glass.

"CRT processing" means conducting all of the following activities:

- Receiving broken or intact CRTs; and
- Intentionally breaking intact CRTs or further breaking or separating broken CRTs; and
- Sorting or otherwise managing glass removed from CRT monitors.

"Dangerous waste constituents" means those constituents listed in WAC 173-303-9905 and any other constituents that have caused a waste to be a dangerous waste under this chapter.

"Dangerous waste management unit" is a contiguous area of land on or in which dangerous waste is placed, or the largest area in which there is a significant likelihood of mixing dangerous waste constituents in the same area. Examples of dangerous waste management units include a surface impoundment, a waste pile, a land treatment area, a landfill cell, an incinerator, a tank and its associated piping and underlying containment system and a container storage area. A container alone does not constitute a unit; the unit includes containers and the land or pad upon which they are placed.

"Dangerous wastes" means those solid wastes designated in WAC 173-303-070 through 173-303-100 as dangerous, or extremely hazardous or mixed waste. As used in this chapter, the words "dangerous waste" will refer to the full universe of wastes regulated by this chapter.
The abbreviation "DW" will refer only to that part of the regulated universe which is not extremely hazardous waste. (See also "extremely hazardous waste," "hazardous waste," and "mixed waste" definitions.)

"Debris" means solid material exceeding a 60 mm particle size that is intended for disposal and that is: A manufactured object; or plant or animal matter; or natural geologic material. However, the following materials are not debris: Any material for which a specific treatment standard is provided in 40 C.F.R. Part 268 Subpart D (incorporated by reference in WAC 173-303-140 (2)(a)); process residuals such as smelter slag and residues from the treatment of waste, wastewater, sludges, or air emission residues; and intact containers of hazardous waste that are not ruptured and that retain at least seventy-five percent of their original volume. A mixture of debris that has not been treated to the standards provided by 40 C.F.R. 268.45 and other material is subject to regulation as debris if the mixture is comprised primarily of debris, by volume, based on visual inspection.

"Department" means the department of ecology.

"Dermal Rabbit LD₅₀" means the single dosage in milligrams per kilogram (mg/kg) body weight which, when dermally (skin) applied for 24 hours, within 14 days kills half or more of a group of ten rabbits each weighing between 2.0 and 3.0 kilograms.

"Designated facility" means:

• A dangerous waste treatment, storage, disposal, or recycling facility that:
  - Has received a permit (or interim status) in accordance with the requirements of this chapter,
  - Has received a permit (or interim status) from another state authorized in accordance with 40 C.F.R. Part 271,
  - Has received a permit (or interim status) from EPA in accordance with 40 C.F.R. Part 270,
  - Has a permit by rule under WAC 173-303-802(5), or is regulated under WAC 173-303-120 (4)(c) or 173-303-525 when the dangerous waste is to be recycled, and
  - That has been designated on the manifest pursuant to WAC 173-303-180(1).

• "Designated facility" also means a generator site designated on the manifest to receive its waste as a return shipment from a facility that has rejected the waste in accordance with WAC 173-303-370 (5)(f).
  - If a waste is destined to a facility in an authorized state that has not yet obtained authorization to regulate that particular waste as dangerous, then the designated facility must be a facility allowed by the receiving state to accept such waste.

• The following are designated facilities only for receipt of state-only waste; they cannot receive federal hazardous waste from off-site: Facilities operating under WAC 173-303-500 (2)(c).

"Designation" is the process of determining whether a waste is regulated under the dangerous waste lists, WAC 173-303-080 through 173-303-082; or characteristics, WAC 173-303-090; or criteria, WAC 173-303-100. The procedures for designating wastes are in WAC 173-303-070. A waste that has been designated as a dangerous waste may be either DW or EHW.

"Destination facility" means a facility that treats, disposes of, or recycles a particular category of universal waste, except those management activities described in WAC 173-303-573 (9)(a), (b) and (c) and 173-303-573 (20)(a), (b) and (c). A facility at which a particular
category of universal waste is only accumulated, is not a destination facility for purposes of managing that category of universal waste.

"Dike" means an embankment or ridge of natural or man-made materials used to prevent the movement of liquids, sludges, solids, or other substances.

"Dioxins and furans (D/F)" means tetra, penta, hexa, hepta, and octa-chlorinated dibenzo dioxins and furans.

"Director" means the director of the department of ecology or ((his)) their designee.

"Discharge" or "dangerous waste discharge" means the accidental or intentional release of hazardous substances, dangerous waste or dangerous waste constituents such that the substance, waste or a waste constituent may enter or be emitted into the environment.

"Disposal" means the discharging, discarding, or abandoning of dangerous wastes or the treatment, decontamination, or recycling of such wastes once they have been discarded or abandoned. This includes the discharge of any dangerous wastes into or on any land, air, or water.

"Domestic sewage" means untreated sanitary wastes that pass through a sewer system to a publicly owned treatment works (POTW) for treatment.

"Draft permit" means a document prepared under WAC 173-303-840 indicating the department's tentative decision to issue or deny, modify, revoke and reissue, or terminate a permit. A notice of intent to terminate or deny a permit are types of draft permits. A denial of a request for modification, revocation and reissuance, or termination as discussed in WAC 173-303-830 is not a draft permit.

"Drip pad" is an engineered structure consisting of a curbed, free-draining base, constructed of nonearthen materials and designed to convey preservative kick-back or drippage from treated wood, precipitation, and surface water run-on to an associated collection system at wood preserving plants.

"Electronic manifest (or e-Manifest)" means the electronic format of the hazardous waste manifest that is obtained from EPA's national e-Manifest system and transmitted electronically to the system, and that is the legal equivalent of EPA Forms 8700-22 (Manifest) and 8700-2A (Continuation Sheet).

"Electronic Manifest System (or e-Manifest System)" means EPA's national information technology system through which the electronic manifest may be obtained, completed, transmitted, and distributed to users of the electronic manifest and to regulatory agencies.

"Electronic signature" is defined in RCW 19.34.020.

"Elementary neutralization unit" means a device which:

Is used for neutralizing wastes which are dangerous wastes only because they exhibit the corrosivity characteristics defined in WAC 173-303-090 or are listed in WAC 173-303-081, or in 173-303-082 only for this reason; and

Meets the definition of tank, tank system, container, transport vehicle, or vessel.

"Eligible academic entity" see WAC 173-303-235.

"Enforceable document" means an order, consent decree, plan or other document that meets the requirements of 40 C.F.R. 271.16(e) and is issued by the director to apply alternative requirements for closure, post-closure, groundwater monitoring, corrective action or financial assurance under WAC 173-303-610 (1)(e), 173-303-645 (1)((e)) (f), or 173-303-620 (1)(d) or, as incorporated by reference at WAC 173-303-400, 40 C.F.R. 265.90(f), 265.110(d), or 265.140(d). Enforcea-
ble documents include, but are not limited to, closure plans and post-closure plans, permits issued under chapter 70.105 RCW, orders issued under chapter 70.105 RCW and orders and consent decrees issued under chapter 70.105D RCW.

"Environment" means any air, land, water, or groundwater.

"EPA/state identification number" or "EPA/state ID#" means the number assigned by EPA or by the department of ecology to each generator, transporter, and TSD facility.

"Episodic event" see WAC 173-303-173.

"Excluded scrap metal" is processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal.

"Existing tank system" or "existing component" means a tank system or component that is used for the storage or treatment of dangerous waste and that is in operation, or for which installation has commenced on or prior to February 3, 1989. Installation will be considered to have commenced if the owner or operator has obtained all federal, state, and local approvals or permits necessary to begin physical construction of the site or installation of the tank system and if either:

A continuous on-site physical construction or installation program has begun; or

The owner or operator has entered into contractual obligations, which cannot be canceled or modified without substantial loss, for physical construction of the site or installation of the tank system to be completed within a reasonable time.

"Existing TSD facility" means a facility which was in operation or for which construction commenced on or before November 19, 1980, for wastes designated by 40 C.F.R. Part 261, or August 9, 1982, for wastes designated only by this chapter and not designated by 40 C.F.R. Part 261. A facility has commenced construction if the owner or operator has obtained permits and approvals necessary under federal, state, and local statutes, regulations, and ordinances and either:

A continuous on-site, physical construction program has begun; or

The owner or operator has entered into contractual obligation, which cannot be canceled or modified without substantial loss, for physical construction of the facility to be completed within a reasonable time.

"Explosives or munitions emergency" means a situation involving the suspected or detected presence of unexploded ordnance (UXO), damaged or deteriorated explosives or munitions, an improvised explosive device (IED), other potentially explosive material or device, or other potentially harmful military chemical munitions or device, that creates an actual or potential imminent threat to human health, including safety, or the environment, including property, as determined by an explosives or munitions emergency response specialist. Such situations may require immediate and expeditious action by an explosives or munitions emergency response specialist to control, mitigate, or eliminate the threat.

"Explosives or munitions emergency response" means all immediate response activities by an explosives and munitions emergency response specialist to control, mitigate, or eliminate the actual or potential threat encountered during an explosives or munitions emergency. An explosives or munitions emergency response may include in-place render-safe procedures, treatment or destruction of the explosives or munitions and/or transporting those items to another location to be rendered safe, treated, or destroyed. Any reasonable delay in the completion of an explosives or munitions emergency response caused by a nec-
necessary, unforeseen, or uncontrollable circumstance will not terminate the explosives or munitions emergency. Explosives and munitions emergency responses can occur on either public or private lands and are not limited to responses at RCRA facilities.

"Explosives or munitions emergency response specialist" means an individual trained in chemical or conventional munitions or explosives handling, transportation, render-safe procedures, or destruction techniques. Explosives or munitions emergency response specialists include Department of Defense (DOD) emergency explosive ordnance disposal (EOD), technical escort unit (TEU), and DOD-certified civilian or contractor personnel; and other federal, state, or local government, or civilian personnel similarly trained in explosives or munitions emergency responses.

"Export" means the transportation of hazardous waste from a location under the jurisdiction of the United States to another country, or a location not under the jurisdiction of any country, for the purpose of recovery, treatment, or disposal operations therein.

"Exporter," also known as primary exporter on the RCRA hazardous waste manifest, means the person domiciled in the United States who is required to originate the movement document in accordance with 40 C.F.R. Part 262.83(d) or the manifest for a shipment of hazardous waste in accordance with 40 C.F.R. Part 262, Subpart B, or equivalent state provision specifies a foreign receiving facility as the facility the hazardous wastes will be sent, or any recognized trader who proposes export of the hazardous waste to recovery, treatment, or disposal in the country of import.

"Extremely hazardous waste" means those dangerous and mixed wastes designated in WAC 173-303-100 as extremely hazardous. The abbreviation "EHW" will be used in this chapter to refer to those dangerous and mixed wastes which are extremely hazardous. (See also "dangerous waste" and "hazardous waste" definitions.)

"Facility" means:
- All contiguous land, and structures, other appurtenances, and improvements on the land used for recycling, reusing, reclaiming, transferring, storing, treating, (disposing of) disposing of dangerous waste or managing hazardous secondary materials prior to reclamation. A facility may consist of several treatment, storage, or disposal operational units (for example, one or more landfills, surface impoundments, or combination of them). Unless otherwise specified in this chapter, the terms "facility," "treatment, storage, disposal facility," "TSD facility," "dangerous waste facility," or "waste management facility" are used interchangeably.
- For purposes of implementing corrective action under WAC 173-303-64620 or 173-303-64630, "facility" also means all contiguous property under the control of an owner or operator seeking a permit under chapter 70.105 RCW or chapter 173-303 WAC and includes the definition of facility at RCW 70.105D.020(8).
- "Facility mailing list" means the mailing list for a facility maintained by the department in accordance with WAC 173-303-840 (3)(e)(I)(D).
- "Final closure" means the closure of all dangerous waste management units at the facility in accordance with all applicable closure requirements so that dangerous waste management activities under WAC 173-303-400 and 173-303-600 through 173-303-670 are no longer conducted at the facility. Areas only subject to generator standards WAC 173-303-170 through 173-303-230 need not be included in final closure.
"Fish LC50" means the concentration that will kill fifty percent or more of the exposed fish in a specified time period. For book designation, LC50 data must be derived from an exposure period greater than or equal to twenty-four hours. A hierarchy of species LC50 data should be used that includes (in decreasing order of preference) salmonids, fathead minnows (Pimephales promelas), and other fish species. For the ninety-six-hour static acute fish toxicity test, described in WAC 173-303-110 (3)(b)(i), coho salmon (Oncorhynchus kisutch), rainbow trout (Oncorhynchus mykiss), or brook trout (Salvelinus fontinalis) must be used.

"Food chain crops" means tobacco, crops grown for human consumption, and crops grown to feed animals whose products are consumed by humans.

"Formal written affiliated agreement" see WAC 173-303-235.

"Freeboard" means the vertical distance between the top of a tank or surface impoundment dike, and the surface of the waste contained therein.

"Fugitive emissions" means the emission of contaminants from sources other than the control system exit point. Material handling, storage piles, doors, windows and vents are typical sources of fugitive emissions.

"Generator" means any person, by site, whose act or process produces dangerous waste or whose act first causes a dangerous waste to become subject to regulation.

"Genetic properties" means those properties which cause or significantly contribute to mutagenic, teratogenic, or carcinogenic effects in man or wildlife.

"Groundwater" means water which fills voids below the land surface and in the earth's crust.

"Halogenated organic compounds" (HOC) means any organic compounds which, as part of their composition, include one or more atoms of fluorine, chlorine, bromine, or iodine which is/are bonded directly to a carbon atom. This definition does not apply to the federal land disposal restrictions of 40 C.F.R. Part 268 which are incorporated by reference at WAC 173-303-140 (2)(a). Note: Additional information on HOCs may be found in Chemical Testing Methods for Designating Dangerous Waste, Ecology Publication #97-407.

"Hazardous debris" means debris that contains a hazardous waste listed in WAC 173-303-9903 or 173-303-9904, or that exhibits a characteristic of hazardous waste identified in WAC 173-303-090.

"Hazardous secondary material" means a secondary material (e.g., spent material, by-product, sludge, or commercial chemical product) that, when discarded, would be identified as a dangerous waste under this chapter.

"Hazardous secondary material generator" means any person whose act or process produces hazardous secondary materials at the generating facility. For purposes of this definition, "generating facility" means all contiguous property owned, leased, or otherwise controlled by the hazardous secondary material generator.

"Hazardous substances" means any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the physical, chemical, or biological properties described in WAC 173-303-090 or 173-303-100.

"Hazardous wastes" means those solid wastes designated by 40 C.F.R. Part 261, and regulated as hazardous and/or mixed waste by the United States EPA. This term will never be abbreviated in this chapter.
to avoid confusion with the abbreviations "DW" and "EHW." (See also "dangerous waste" and "extremely hazardous waste" definitions.)

"Home scrap metal" is scrap metal as generated by steel mills, foundries, and refineries such as turnings, cuttings, punchings, and borings.

"Ignitable waste" means a dangerous waste that exhibits the characteristic of ignitability described in WAC 173-303-090(5).

"Inactive portion" means that portion of a facility which has not recycled, treated, stored, or disposed dangerous waste after:

- The effective date of the waste's designation, for wastes designated under 40 C.F.R. Part 261; and
- March 10, 1982, for wastes designated only by this chapter and not designated by 40 C.F.R. Part 261.

"Inactive range" means a military range that is not currently being used, but that is still under military control and considered by the military to be a potential range area, and that has not been put to a new use that is incompatible with range activities.

"Incinerator" means any enclosed device that:
- Uses controlled flame combustion and neither meets the criteria for classification as a boiler, sludge dryer, or carbon regeneration unit, nor is listed as an industrial furnace; or
- Meets the definition of infrared incinerator or plasma arc incinerator.

"Incompatible waste" means a dangerous waste that is unsuitable for:
- Placement in a particular device or facility because it may cause corrosion or decay of containment materials (for example, container inner liners or tank walls); or
- Commingling with another waste or material under uncontrolled conditions because the commingling might produce heat or pressure, fire or explosion, violent reaction, toxic dusts, fumes, mists, or gases, or flammable fumes or gases.

(See appendix V of 40 C.F.R. Parts 264 and 265 for examples.)

"Independent qualified registered professional engineer" means a person who is licensed by the state of Washington, or a state which has reciprocity with the state of Washington as defined in RCW 18.43.100, and who is not an employee of the owner or operator of the facility for which construction or modification certification is required. A qualified professional engineer is an engineer with expertise in the specific area for which a certification is given.

"Industrial-furnace" means any of the following enclosed devices that are integral components of manufacturing processes and that use thermal treatment to accomplish recovery of materials or energy: Cement kilns; lime kilns; aggregate kilns; phosphate kilns; blast furnaces; smelting, melting, and refining furnaces (including pyrometallurgical devices such as cupolas, reverberator furnaces, sintering machines, roasters and foundry furnaces); titanium dioxide chloride process oxidation reactors; coke ovens; methane reforming furnaces; combustion devices used in the recovery of sulfur values from spent sulfuric acid; pulping liquor recovery furnaces; combustion devices used in the recovery of sulfur values from spent sulfuric acid; and halogen acid furnaces (HAFs) for the production of acid from generated dangerous waste generated by chemical production facilities where the furnace is located on the site of a chemical production facility, the acid product has a halogen acid content of at least 3%, the acid product is used in a manufacturing process, and, except for dangerous waste burned as fuel, dangerous waste fed to the furnace has a minimum
halogen content of 20% as-generated. The department may decide to add devices to this list on the basis of one or more of the following factors:

The device is designed and used primarily to accomplish recovery of material products;

The device burns or reduces secondary materials as ingredients in an industrial process to make a material product;

The device burns or reduces secondary materials as effective substitutes for raw materials in processes using raw materials as principal feedstocks;

The device burns or reduces raw materials to make a material product;

The device is in common industrial use to produce a material product; and

Other factors, as appropriate.

"Infrared incinerator" means any enclosed device that uses electric powered resistance heaters as a source of radiant heat followed by an afterburner using controlled flame combustion and which is not listed as an industrial furnace.

"Inground tank" means a device meeting the definition of "tank" in this section whereby a portion of the tank wall is situated to any degree within the ground, thereby preventing visual inspection of that external surface area of the tank that is in the ground.

"Inhalation Rat LC₅₀" means a concentration in milligrams of substance per liter of air (mg/L) which, when administered to the respiratory tract for one hour or more, kills within fourteen days half or more of a group of ten rats each weighing between 200 and 300 grams.

"Inner liner" means a continuous layer of material placed inside a tank or container which protects the construction materials of the tank or container from the waste or reagents used to treat the waste.

"Installation inspector" means a person who, by reason of their knowledge of the physical sciences and the principles of engineering, acquired by a professional education and related practical experience, is qualified to supervise the installation of tank systems.

"Interim status permit" means a temporary permit given to TSD facilities which qualify under WAC 173-303-805.

"Knowledge" means sufficient information about a waste to reliably substitute for direct testing of the waste. To be sufficient and reliable, the "knowledge" used must provide information necessary to manage the waste in accordance with the requirements of this chapter.

Note: "Knowledge" may be used by itself or in combination with testing to designate a waste pursuant to WAC 173-303-070 (3)(a) (c), or to obtain a detailed chemical, physical, and/or biological analysis of a waste as required in WAC 173-303-300 (2).

"Laboratory" see WAC 173-303-235 only.

"Laboratory clean-out" see WAC 173-303-235.

"Laboratory worker" see WAC 173-303-235.

"Lamp," also referred to as "universal waste lamp" means any type of high or low pressure bulb or tube portion of an electric lighting device that generates light through the discharge of electricity either directly or indirectly as radiant energy. Universal waste lamps include, but are not limited to, fluorescent, mercury vapor, metal halide, high-pressure sodium and neon. As a reference, it may be assumed that four, four-foot, one-inch diameter unbroken fluorescent tubes are equal to 2.2 pounds in weight.

"Land disposal" means placement in or on the land, except in a corrective action management unit or staging pile, and includes, but
is not limited to, placement in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt dome formation, salt bed formation, underground mine or cave, or placement in a concrete vault, or bunker intended for disposal purposes.

"Landfill" means a disposal facility, or part of a facility, where dangerous waste is placed in or on land and which is not a pile, a land treatment facility, a surface impoundment, or an underground injection well, a salt dome formation, a salt bed formation, an underground mine, a cave, or a corrective action management unit.

"Land treatment" means the practice of applying dangerous waste onto or incorporating dangerous waste into the soil surface so that it will degrade or decompose. If the waste will remain after the facility is closed, this practice is disposal.

"Large quantity generator" means a generator who generates any of the following amounts in a calendar month:

(a) Greater than or equal to 2,200 lb (1,000 kg) of dangerous waste that is not acute hazardous waste (AHW) or WT01 extremely hazardous waste (EHW); or

(b) Greater than 2.2 lb (1 kg) of acute hazardous waste and/or WT01 EHW; or

(c) Greater than 220 lb (100 kg) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste and/or WT01 EHW.

"Large quantity handler of universal waste" means a universal waste handler (as defined in this section) who accumulates 11,000 pounds or more total of universal waste (batteries, mercury-containing equipment, and lamps calculated collectively) or who accumulates more than 2,200 pounds of lamps at any time. This designation as a large quantity handler of universal waste is retained through the end of the calendar year in which 11,000 pounds or more total of universal waste and/or 2,200 pounds of lamps is accumulated.

"Leachable inorganic waste" means solid dangerous waste (that is, passes the Paint Filter Test Method 9095B as described in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods" EPA Publication SW-846 as incorporated by reference in WAC 173-303-110 (3)(a)) that is not an organic/carbonaceous waste and exhibits the toxicity characteristic (dangerous waste numbers D004 to D011, only) under WAC 173-303-090 (8).

"Leachate" means any liquid, including any components suspended in the liquid, that has percolated through or drained from dangerous waste.

"Leak-detection system" means a system capable of detecting the failure of either the primary or secondary containment structure or the presence of a release of dangerous waste or accumulated liquid in the secondary containment structure. Such a system must employ operational controls (e.g., daily visual inspections for releases into the secondary containment system of aboveground tanks) or consist of an interstitial monitoring device designed to detect continuously and automatically the failure of the primary or secondary containment structure or the presence of a release of dangerous waste into the secondary containment structure.

"Legal defense costs" means any expenses that an insurer incurs in defending against claims of third parties brought under the terms and conditions of an insurance policy.

"Liner" means a continuous layer of man-made or natural materials which restrict the escape of dangerous waste, dangerous waste constit-
uents, or leachate through the sides, bottom, or berms of a surface impoundment, waste pile, or landfill.

"Major facility" means a facility or activity classified by the department as major.

"Manifest" means the shipping document EPA Form 8700-22 (including, if necessary, EPA Form 8700-22A ((τ)), or the electronic manifest originated and signed by the generator or offeror in accordance with the requirements of WAC 173-303-180 (Manifest), and the applicable requirements of WAC 173-303-170 through 173-303-692.

"Manifest tracking number" means the alphanumeric identification number (a unique three letter suffix preceded by nine numerical digits), that is preprinted in Item 4 of the Manifest by a registered source.

"Manufacturing process unit" means a unit which is an integral and inseparable portion of a manufacturing operation, processing a raw material into a manufacturing intermediate or finished product, reclaiming spent materials or reconditioning components.

"Marine terminal operator" means a person engaged in the business of furnishing wharfage, dock, pier, warehouse, covered and/or open storage spaces, cranes, forklifts, bulk loading and/or unloading structures and landings in connection with a highway or rail carrier and a water carrier. A marine terminal operator includes, but is not limited to, terminals owned by states and their political subdivisions; railroads who perform port terminal services not covered by their line haul rates; common carriers who perform port terminal services; and warehousmen and stevedores who operate port terminal facilities.

"Medium quantity generator" means a generator who generates the following amounts in a calendar month:
(a) Greater than 220 lb (100 kg) but less than 2,200 lb (1,000 kg) of dangerous waste that is not AHW and/or WT01 extremely hazardous waste (EHW);
(b) Less than or equal to 2.2 lb (1 kg) of AHW and/or WT01 EHW; and
(c) Less than or equal to 220 lb (100 kg) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste and/or WT01 EHW.

"Mercury-containing equipment" means a device or part of a device (including thermostats, but excluding batteries and lamps) that contains elemental mercury integral to its function. Examples of mercury-containing equipment include thermostats, thermometers, manometers, and electrical switches.

"Micronutrient fertilizer" means a produced or imported commercial fertilizer that contains commercially valuable concentrations of micronutrients but does not contain commercially valuable concentrations of nitrogen, phosphoric acid, available phosphorous, potash, calcium, magnesium, or sulfur. Micronutrients are boron, chlorine, cobalt, copper, iron, manganese, molybdenum, sodium, and zinc.

"Military" means the Department of Defense (DOD), the Armed Services, Coast Guard, National Guard, Department of Energy (DOE), or other parties under contract or acting as an agent for the foregoing, who handle military munitions.

"Military munitions" means all ammunition products and components produced or used by or for the U.S. Department of Defense or the U.S. Armed Services for national defense and security, including military munitions under the control of the Department of Defense, the U.S.
Coast Guard, the U.S. Department of Energy (DOE), and National Guard personnel. The term military munitions includes: Confined gaseous, liquid, and solid propellants, explosives, pyrotechnics, chemical and riot control agents, smokes, and incendiaries used by DOD components, including bulk explosives and chemical warfare agents, chemical munitions, rockets, guided and ballistic missiles, bombs, warheads, mortar rounds, artillery ammunition, small arms ammunition, grenades, mines, torpedoes, depth charges, cluster munitions and dispensers, demolition charges, and devices and components thereof. Military munitions do not include wholly inert items, improvised explosive devices, and nuclear weapons, nuclear devices, and nuclear components thereof. However, the term does include nonnuclear components of nuclear devices, managed under DOE's nuclear weapons program after all required sanitization operations under the Atomic Energy Act of 1954, as amended, have been completed.

"Military range" means designated land and water areas set aside, managed, and used to conduct research on, develop, test, and evaluate military munitions and explosives, other ordnance, or weapon systems, or to train military personnel in their use and handling. Ranges include firing lines and positions, maneuver areas, firing lanes, test pads, detonation pads, impact areas, and buffer zones with restricted access and exclusionary areas.

"Miscellaneous unit" means a dangerous waste management unit where dangerous waste is treated, stored, or disposed of and that is not a container, tank, surface impoundment, pile, land treatment unit, landfill, incinerator, boiler, industrial furnace, underground injection well with appropriate technical standards under 40 C.F.R. Part 146, containment building, corrective action management unit, temporary unit, staging pile, or unit eligible for a research, development, and demonstration permit under WAC 173-303-809.

"Mixed waste" means a dangerous, extremely hazardous, or acutely hazardous waste that contains both a nonradioactive hazardous component and, as defined by 10 C.F.R. 20.1003, source, special nuclear, or by-product material subject to the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

"New tank system" or "new tank component" means a tank system or component that will be used for the storage or treatment of dangerous waste and for which installation has commenced after February 3, 1989; except, however, for purposes of WAC 173-303-640 (4)(g)(ii) and 40 C.F.R. 265.193 (g)(2) as adopted by reference in WAC 173-303-400(3), a new tank system is one for which construction commences after February 3, 1989. (See also "existing tank system.")

"New TSD facility" means a facility which began operation or for which construction commenced after November 19, 1980, for wastes designated by 40 C.F.R. Part 261, or August 9, 1982, for wastes designated only by this chapter and not designated by 40 C.F.R. Part 261.

"NIOSH registry" means the registry of toxic effects of chemical substances which is published by the National Institute for Occupational Safety and Health.

"No free liquids" as used in WAC 173-303-071 (3)(rr) and (ss), means that solvent-contaminated wipes may not contain free liquids as determined by Method 9095B (Paint Filter Liquids Test), included in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" (EPA Publication SW-846), which is incorporated by reference, and that there is no free liquid in the container holding the wipes.

"Nonprofit research institute" see WAC 173-303-235.
"Nonsudden accident" or "nonsudden accidental occurrence" means an unforeseen and unexpected occurrence which takes place over time and involves continuous or repeated exposure.

"Occurrence" means an accident, including continuous or repeated exposure to conditions, which results in bodily injury or property damage which the owner or operator neither expected nor intended to occur.

"Off-specification used oil fuel" means used oil fuel that exceeds any specification level described in Table 1 in WAC 173-303-515.

"On-ground tank" means a device meeting the definition of "tank" in this section and that is situated in such a way that the bottom of the tank is on the same level as the adjacent surrounding surface so that the external tank bottom cannot be visually inspected.

"On-site" means the same or geographically contiguous property which may be divided by public or private right of way, provided that the entrance and exit between the properties is at a cross-roads intersection, and access is by crossing as opposed to going along the right of way. Noncontiguous properties owned by the same person but connected by a right of way which they control and to which the public does not have access, are also considered on-site property.

"Operator" means the person responsible for the overall operation of a facility. (See also "state operator.")

"Oral Rat LD\textsubscript{50}" means the single dosage in milligrams per kilogram (mg/kg) body weight, when orally administered, which, within fourteen days, kills half a group of ten or more white rats each weighing between 200 and 300 grams.

"Organic/carbonaceous waste" means a dangerous waste that contains combined concentrations of greater than ten percent organic/carbonaceous constituents in the waste; organic/carbonaceous constituents are those substances that contain carbon-hydrogen, carbon-halogen, or carbon-carbon chemical bonding.

"Partial closure" means the closure of a dangerous waste management unit in accordance with the applicable closure requirements of WAC 173-303-400 and 173-303-600 through 173-303-695 at a facility that contains other active dangerous waste management units. For example, partial closure may include the closure of a tank (including its associated piping and underlying containment systems), landfill cell, surface impoundment, waste pile, or other dangerous waste management unit, while other units of the same facility continue to operate.

"Permit" means an authorization which allows a person to perform dangerous waste transfer, storage, treatment, or disposal operations, and which typically will include specific conditions for such facility operations. Permits must be issued by one of the following:

The department, pursuant to this chapter;
United States EPA, pursuant to 40 C.F.R. Part 270; or
Another state authorized by EPA, pursuant to 40 C.F.R. Part 271.

"Permit-by-rule" means a provision of this chapter stating that a facility or activity is deemed to have a dangerous waste permit if it meets the requirements of the provision.

"Persistence" means the quality of a material that retains more than half of its initial activity after one year (365 days) in either a dark anaerobic or dark aerobic environment at ambient conditions. Persistent compounds are either halogenated organic compounds (HOC) or polycyclic aromatic hydrocarbons (PAH) as defined in this section.

"Person" means an individual, trust, firm, joint stock company, federal agency, corporation (including a government corporation),
partnership, association, state, municipality, commission, political subdivision of a state, or any interstate body.

"Personnel or facility personnel" means all persons who work at, or oversee the operations of, a dangerous waste facility, and whose actions or failure to act may result in noncompliance with the requirements of WAC 173-303-400 or 173-303-280 through 173-303-395 and 173-303-600 through 173-303-695.

"Pesticide" means but is not limited to: Any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any insect, rodent, nematode, mollusk, fungus, weed, and any other form of plant or animal life, or virus (except virus on or in living man or other animal) which is normally considered to be a pest or which the department of agriculture may declare to be a pest; any substance or mixture of substances intended to be used as a plant regulator, defoliant, or desiccant; any substance or mixture of substances intended to be used as spray adjuvant; and, any other substance intended for such use as may be named by the department of agriculture by regulation. Herbicides, fungicides, insecticides, and rodenticides are pesticides for the purposes of this chapter.

"Pile" means any noncontainerized accumulation of solid, nonflowing dangerous waste that is used for treatment or storage.

"Plasma arc incinerator" means any enclosed device using a high intensity electrical discharge or arc as a source of heat followed by an afterburner using controlled flame combustion and which is not listed as an industrial furnace.

"Point of generation" means the point, including both the date and place, a material is first identified as a solid waste under this chapter 173-303 WAC.

"Point source" means any confined and discrete conveyance from which pollutants are or may be discharged. This term includes, but is not limited to, pipes, ditches, channels, tunnels, wells, cracks, containers, rolling stock, concentrated animal feeding operations, or watercraft, but does not include return flows from irrigated agriculture.

"Polycyclic aromatic hydrocarbons" (PAH) means those hydrocarbon molecules composed of two or more fused benzene rings. For purposes of this chapter, the PAHs of concern for designation are: Acenaphthene, acenaphthylene, fluorene, anthracene, fluoranthene, phenanthrene, benzo(a)anthracene, benzo(b)fluoranthene, benzo(k)fluoranthene, pyrene, chrysene, benzo(a)pyrene, dibenz(a,h)anthracene, indeno(1,2,3-c,d)pyrene, benzo(g,h,i)perylene, dibenzo [(a,e), (a,h), (a,i), and (a,l)] pyrenes, and dibenzo(a,j) acridine.

"Post-closure" means the requirements placed upon disposal facilities (e.g., landfills, impoundments closed as disposal facilities, etc.) after closure to ensure their environmental safety for a number of years after closure. (See also "closure.")

"Processed scrap metal" is scrap metal that has been manually or physically altered to either separate it into distinct materials to enhance economic value or to improve the handling of materials. Processed scrap metal includes, but is not limited to, scrap metal which has been baled, shredded, sheared, chopped, crushed, flattened, cut, melted, or separated by metal type (that is, sorted), and fines, drosses and related materials that have been agglomerated. Note: Shredded circuit boards being sent for recycling are not considered processed scrap metal. They are covered under the exclusion from the definition of solid waste for shredded circuit boards being recycled (WAC 173-303-071 (3)(gg)).
"Prompt scrap metal" is scrap metal as generated by the metal working/fabrication industries and includes such scrap metal as turnings, cuttings, punchings, and borings. Prompt scrap is also known as industrial or new scrap metal.

"Publicly owned treatment works" or "POTW" means any device or system, owned by the state or a municipality, which is used in the treatment, recycling, or reclamation of municipal sewage or liquid industrial wastes. This term includes sewers, pipes, or other conveyances only if they convey wastewater to a POTW.

"Qualified groundwater scientist" means a scientist or engineer who has received a baccalaureate or post-graduate degree in the natural sciences or engineering, and has sufficient training and experience in groundwater hydrology and related fields to make sound professional judgments regarding groundwater monitoring and contaminant fate and transport. Sufficient training and experience may be demonstrated by state registration, professional certifications, or completion of accredited university courses.

"Reactive acutely hazardous unwanted material" see WAC 173-303-235.

"Reactive waste" means a dangerous waste that exhibits the characteristic of reactivity described in WAC 173-303-090(7).

"Reclaim" means to process a material in order to recover useable products, or to regenerate the material. Reclamation is the process of reclaiming.

"Recognized trader" means a person domiciled in the United States, by site of business, who acts to arrange and facilitate transboundary movements of waste destined for recovery or disposal operations, either by purchasing from and subsequently selling to United States and foreign facilities, or by acting under arrangements with a United States waste facility to arrange for the export or import of the waste.

"Recover" means extract a useable material from a solid or dangerous waste through a physical, chemical, biological, or thermal process. Recovery is the process of recovering.

"Recycle" means to use, reuse, or reclaim a material.

"Recycling unit" is a contiguous area of land, structures and equipment where materials designated as dangerous waste or used oil are placed or processed in order to recover useable products or regenerate the original materials. For the purposes of this definition, "placement" does not mean "storage" when conducted within the provisions of WAC 173-303-120(4). A container, tank, or processing equipment alone does not constitute a unit; the unit includes containers, tanks or other processing equipment, their ancillary equipment and secondary containment system, and the land upon which they are placed.

"Registration number" means the number assigned by the department of ecology to a transporter who owns or leases and operates a ten-day transfer facility within Washington state.

"Regulated unit" means any new or existing surface impoundment, landfill, land treatment area or waste pile that receives any dangerous waste after:

July 26, 1982, for wastes regulated by 40 C.F.R. Part 261;

October 31, 1984 for wastes designated only by this chapter and not regulated by 40 C.F.R. Part 261; or

The date six months after a waste is newly identified by amendments to 40 C.F.R. Part 261 or this chapter which cause the waste to be regulated.
"Release" means any intentional or unintentional spilling, leaking, pouring, emitting, emptying, discharging, injecting, pumping, escaping, leaching, dumping, or disposing of dangerous wastes, or dangerous constituents as defined at WAC 173-303-64610(4), into the environment and includes the abandonment or discarding of barrels, containers, and other receptacles containing dangerous wastes or dangerous constituents and includes the definition of release at RCW 70.105D.020(32).

"Remediation waste" means all solid and dangerous wastes, and all media (including groundwater, surface water, soils, and sediments) and debris, that are managed for implementing cleanup.

"Replacement unit" means a landfill, surface impoundment, or waste pile unit from which all or substantially all of the waste is removed, and that is subsequently reused to treat, store, or dispose of dangerous waste. "Replacement unit" does not apply to a unit from which waste is removed during closure, if the subsequent reuse solely involves the disposal of waste from that unit and other closing units or corrective action areas at the facility, in accordance with an approved closure plan or EPA or state approved corrective action.

"Representative sample" means a sample which can be expected to exhibit the average properties of the sample source.

"Reuse or use" means to employ a material either:

As an ingredient (including use as an intermediate) in an industrial process to make a product (for example, distillation bottoms from one process used as feedstock in another process). However, a material will not satisfy this condition if distinct components of the material are recovered as separate end products (as when metals are recovered from metal-containing secondary materials); or

In a particular function or application as an effective substitute for a commercial product (for example, spent pickle liquor used as phosphorous precipitant and sludge conditioner in wastewater treatment).

"Runoff" means any rainwater, leachate, or other liquid which drains over land from any part of a facility.

"Run-on" means any rainwater, leachate, or other liquid which drains over land onto any part of a facility.

"Satellite accumulation area" means a location at or near any point of generation where ((hazardous)) dangerous waste is initially accumulated in containers (during routine operations) prior to consolidation at a designated ninety-day accumulation area or storage area. The area must be under the control of the operator of the process generating the waste or secured at all times to prevent improper additions of wastes into the satellite containers.

"Schedule of compliance" means a schedule of remedial measures in a permit including an enforceable sequence of interim requirements leading to compliance with this chapter.

"Scrap metal" means bits and pieces of metal parts (e.g., bars, turnings, rods, sheets, wire) or metal pieces that may be combined together with bolts or soldering (e.g., radiators, scrap automobiles, railroad box cars), which when worn or superfluous can be recycled.

"Sludge" means any solid, semisolid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility. This term does not include the treated effluent from a wastewater treatment plant.

"Sludge dryer" means any enclosed thermal treatment device that is used to dehydrate sludge and that has a maximum total thermal in-
put, excluding the heating value of the sludge itself, of 2,500 Btu/lb of sludge treated on a wet-weight basis.

"Small quantity generator" means a generator who generates less than or equal to the following amounts in a calendar month:

- 220 lb (100 kg) of dangerous waste that is not acute hazardous waste and/or WT01 EHW;
- 2.2 lb (1 kg) of acute hazardous waste and/or WT01 EHW; and
- 220 lb (100 kg) of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste and/or WT01 EHW.

"Small quantity handler of universal waste" means a universal waste handler (as defined in this section) who does not accumulate 11,000 pounds or more total of universal waste (batteries, mercury-containing equipment, and lamps, calculated collectively) and/or who does not accumulate more than 2,200 pounds of lamps at any time.

"Solid acid waste" means a dangerous waste that exhibits the characteristic of low pH under the corrosivity tests of WAC 173-303-090 (6)(a)(iii).

"Solid waste management unit" or "SWMU" means any discernible location at a facility, as defined for the purposes of corrective action, where solid wastes have been placed at any time, irrespective of whether the location was intended for the management of solid or dangerous waste. Such locations include any area at a facility at which solid wastes, including spills, have been routinely and systematically released. Such units include regulated units as defined by chapter 173-303 WAC.

"Solvent-contaminated wipe" means:

(a) A wipe that, after use or after cleaning up a spill, either:

(1) Contains one or more of the F001 through F005 solvents listed in WAC 173-303-082 or the corresponding P- or U- listed solvents found in WAC 173-303-081;

(ii) Exhibits a dangerous waste characteristic found in WAC 173-303-090 when that characteristic results from a solvent listed in WAC 173-303-080;

(iii) Exhibits only the dangerous waste characteristic of ignitability found in WAC 173-303-090 due to the presence of one or more solvents that are not listed in WAC 173-303-080; or

(iv) Designates only for dangerous waste criteria found in WAC 173-303-100 and is not designated by 40 C.F.R. Part 261.

(b) Solvent-contaminated wipes that contain listed dangerous waste other than solvents, or exhibit the characteristic of toxicity, corrosivity, or reactivity due to contaminants other than solvents, are not eligible for the exclusions at WAC 173-303-071 (3)(rr) and (ss).

"Sorbent" means a material that is used to soak up free liquids by either adsorption or absorption, or both. Sorb means to either adsorb or absorb, or both.

"Special incinerator ash" means ash residues resulting from the operation of incineration or energy recovery facilities managing municipal solid waste from residential, commercial and industrial establishments, if the ash residues are designated as dangerous waste only by this chapter and not designated as hazardous waste by 40 C.F.R. Part 261.

"Special waste" means any state-only dangerous waste that is solid only (nonliquid, nonaqueous, nongaseous), that is: Corrosive waste (WAC 173-303-090 (6)(b)(i)), toxic waste that has Category D toxicity (WAC 173-303-100(5)), PCB waste (WAC 173-303-9904 under State Sour-
ces), or persistent waste that is not EHW (WAC 173-303-100(6)). Any solid waste that is regulated by the United States EPA as hazardous waste cannot be a special waste.

"Spent material" means any material that has been used and as a result of contamination can no longer serve the purpose for which it was produced without processing.

"Stabilization" and "solidification" means a technique that limits the solubility and mobility of dangerous waste constituents. Solidification immobilizes a waste through physical means and stabilization immobilizes the waste by bonding or chemically reacting with the stabilizing material.

"Staging pile" means an accumulation of solid, nonflowing, remediation waste that is not a containment building or a corrective action management unit and that is used for temporary storage of remediation waste for implementing corrective action under WAC 173-303-646 or other clean up activities. Staging piles must be designated by the department according to the requirements of WAC 173-303-64690.

"State-only dangerous waste" means a waste designated only by this chapter, chapter 173-303 WAC, and is not regulated as a hazardous waste under 40 C.F.R. Part 261.

"State operator" means the person responsible for the overall operation of the state's extremely hazardous waste facility on the Hanford Reservation.

"Storage" means the holding of dangerous waste for a temporary period. "Accumulation" of dangerous waste, by the generator on the site of generation, (is not storage as long as the generator complies with the applicable requirements of WAC 173-303-200 and 173-303-201) is storage of dangerous waste and can be managed under the applicable conditions for exemption of WAC 173-303-170 (2)(b).

"Sudden accident" means an unforeseen and unexpected occurrence which is not continuous or repeated in nature.

"Sump" means any pit or reservoir that meets the definition of tank and those troughs/trenches connected to it that serves to collect dangerous waste for transport to dangerous waste storage, treatment, or disposal facilities; except that as used in the landfill, surface impoundment, and waste pile rules, "sump" means any lined pit or reservoir that serves to collect liquids drained from a leachate collection and removal system or leak detection system for subsequent removal from the system.

"Surface impoundment" means a facility or part of a facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials), and which is designed to hold an accumulation of liquid wastes or wastes containing free liquids. The term includes holding, storage, settling, and aeration pits, ponds, or lagoons, but does not include injection wells.

"Tank" means a stationary device designed to contain an accumulation of dangerous waste, and which is constructed primarily of non-earthen materials to provide structural support.

"Tank system" means a dangerous waste storage or treatment tank and its associated ancillary equipment and containment system.

"Teaching hospital" see WAC 173-303-235.

"Temporary unit" means a tank or container that is not an accumulation unit under WAC 173-303-200 and that is used for temporary treatment or storage of remediation waste for implementing corrective action under WAC 173-303-646 or other clean up activities.
"TEQ" means toxicity equivalence, the international method of relating the toxicity of various dioxin/furan congeners to the toxicity of 2,3,7,8-tetrachlorodibenzo-p-dioxin.

"Thermal treatment" means the treatment of dangerous waste in a device which uses elevated temperatures as the primary means to change the chemical, physical, or biological character or composition of the dangerous waste. Examples of thermal treatment processes are incineration, molten salt, pyrolysis, calcination, wet air oxidation, and microwave discharge.

"Thermostat" means a temperature control device that contains metallic mercury in an ampule attached to a bimetal sensing element, and mercury-containing ampules that have been removed from these temperature control devices in compliance with the requirements of WAC 173-303-573 (9)(b)(ii) or (20)(b)(ii).

"TLM 96" means the same as "Aquatic LC 50."

"Totally enclosed treatment facility" means a facility for treating dangerous waste which is directly connected to a production process and which prevents the release of dangerous waste or dangerous waste constituents into the environment during treatment.

"Toxic" means having the properties to cause or to significantly contribute to death, injury, or illness of man or wildlife.

"Trained professional" see WAC 173-303-235.

"Transfer facility" means any transportation related facility including loading docks, parking areas, storage areas, buildings, piers, and other similar areas where shipments of dangerous waste or hazardous secondary materials are held, consolidated, or transferred within a period of ten days or less during the normal course of transportation.

"Transport vehicle" means a motor vehicle, water vessel, or rail car used for the transportation of cargo by any mode. Each cargo-carrying body (trailer, railroad freight car, steamship, etc.) is a separate transport vehicle.

"Transportation" means the movement of dangerous waste by air, rail, highway, or water.

"Transporter" means a person engaged in the off-site transportation of dangerous waste.

"Travel time" means the period of time necessary for a dangerous waste constituent released to the soil (either by accident or intent) to enter any on-site or off-site aquifer or water supply system.

"Treatability study" means a study in which a dangerous waste is subjected to a treatment process to determine: Whether the waste is amenable to the treatment process; what pretreatment (if any) is required; the optimal process conditions needed to achieve the desired treatment; the efficiency of a treatment process for a specific waste or wastes; or the characteristics and volumes of residuals from a particular treatment process. Also included in this definition for the purpose of the exemptions contained in WAC 173-303-071 (3)(r) and (s), are liner compatibility, corrosion, and other material compatibility studies and toxicological and health effects studies. A "treatability study" is not a means to commercially treat or dispose of dangerous waste.

"Treatment" means the physical, chemical, or biological processing of dangerous waste to make such wastes nondoanerous or less dangerous, safer for transport, amenable for energy or material resource recovery, amenable for storage, or reduced in volume, with the excep-
tion of compacting, repackaging, and sorting as allowed under WAC 173-303-400(2) and 173-303-600(3).

"Treatment zone" means a soil area of the unsaturated zone of a land treatment unit within which dangerous wastes are degraded, transformed or immobilized.

"Triple rinsing" means the cleaning of containers in accordance with the requirements of WAC 173-303-160 (2)(b), containers.

"Underground injection" means the subsurface emplacement of fluids through a bored, drilled, or driven well, or through a dug well, where the depth of the dug well is greater than the largest surface dimension.

"Underground source of drinking water" (USDW) means an aquifer or its portion:
• Which supplies any public water system or contains a sufficient quantity of groundwater to supply a public water system; and currently supplies drinking water for human consumption or contains fewer than 10,000 mg/l total dissolved solids; and
• Which is not an exempted aquifer.

"USDW" means underground source of drinking water.

"Underground tank" means a device meeting the definition of "tank" in this section whose entire surface area is totally below the surface of and covered by the ground.

"Unexploded ordnance (UXO)" means military munitions that have been primed, fused, armed, or otherwise prepared for action, and have been fired, dropped, launched, projected, or placed in such a manner as to constitute a hazard to operations, installation, personnel, or material and remain unexploded either by malfunction, design, or any other cause.

"Unfit-for-use tank system" means a tank system that has been determined through an integrity assessment or other inspection to be no longer capable of storing or treating dangerous waste without posing a threat of release of dangerous waste to the environment.

"Universal waste" means any of the following dangerous wastes that are subject to the universal waste requirements of WAC 173-303-573:

Batteries as described in WAC 173-303-573(2);

Mercury-containing equipment as described in WAC 173-303-573(3);

and

Lamps as described in WAC 173-303-573(5).

"Universal waste handler":

Means:

A generator (as defined in this section) of universal waste; or

The owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accumulates universal waste, and sends universal waste to another universal waste handler, to a destination facility, or to a foreign destination.

Does not mean:

A person who treats (except under the provisions of WAC 173-303-573 (9)(a), (b), or (c) or (20)(a), (b), or (c)) disposes of, or recycles universal waste; or

A person engaged in the off-site transportation of universal waste by air, rail, highway, or water, including a universal waste transfer facility.

"Universal waste transfer facility" means any transportation-related facility including loading docks, parking areas, storage areas
and other similar areas where shipments of universal waste are held during the normal course of transportation for ten days or less.

"Universal waste transporter" means a person engaged in the off-site transportation of universal waste by air, rail, highway, or water.

"Unsaturated zone" means the zone between the land surface and the water table.

"Uppermost aquifer" means the geological formation nearest the natural ground surface that is capable of yielding groundwater to wells or springs. It includes lower aquifers that are hydraulically interconnected with this aquifer within the facility property boundary.

"Used oil" means any oil that has been refined from crude oil, or any synthetic oil, that has been used and as a result of such use is contaminated by physical or chemical impurities.

"User of the electronic manifest system" means a dangerous waste generator, a dangerous waste transporter, an owner or operator of a dangerous waste treatment, storage, recycling or disposal facility, or any other person that:

- Is required to use a manifest to comply with:
  - Any federal or state requirement to track the shipment, transportation, and receipt of dangerous waste or other waste material that is shipped from the site of generation to an off-site designated facility for treatment, storage, recycling or disposal; or
  - Any federal or state requirement to track the shipment, transportation, and receipt of rejected wastes or regulated container residues that are shipped from a designated facility to an alternative facility, or returned to the generator; and
- Elects to use the system to obtain, complete, and transmit an electronic manifest format supplied by the EPA electronic manifest system; or
- Elects to use the paper manifest form and submits to the system for data processing purposes a paper copy of the manifest (or data from such paper copy), in accordance with WAC 173-303-370 (2)(e). These paper copies are submitted for data exchange purposes only and are not the official copies of record for legal purposes.

"Unwanted material" see WAC 173-303-235.

"Vessel" includes every description of watercraft, used or capable of being used as a means of transportation on the water.

"Waste-derived fertilizer" means a commercial fertilizer that is derived in whole or in part from solid waste as defined in chapter 70.95 or 70.105 RCW, or rules adopted thereunder, but does not include fertilizers derived from biosolids or biosolid products regulated under chapter 70.95J RCW or wastewaters regulated under chapter 90.48 RCW.

"Wastewater treatment unit" means a device that:

Is part of a wastewater treatment facility which is subject to regulation under either:

- Section 402 or section 307(b) of the Federal Clean Water Act; or
- Chapter 90.48 RCW, State Water Pollution Control Act, provided that the waste treated at the facility is a state-only dangerous waste; and

Handles dangerous waste in the following manner:

- Receives and treats or stores an influent wastewater; or
- Generates and accumulates or treats or stores a wastewater treatment sludge; and

Meets the definition of tank or tank system in this section.
"Water or rail (bulk shipment)" means the bulk transportation of dangerous waste which is loaded or carried on board a vessel or rail-car without containers or labels.

"Weekly inspections" means at least once during the period from Sunday to Saturday.

"Wipe" means a woven or nonwoven shop towel, rag, pad, or swab made of wood pulp, fabric, cotton, polyester blends, or other material.

"Working container" see WAC 173-303-235.

"Zone of engineering control" means an area under the control of the owner/operator that, upon detection of a dangerous waste release, can be readily cleaned up prior to the release of dangerous waste or dangerous constituents to groundwater or surface water.

Any terms used in this chapter which have not been defined in this section have either the same meaning as set forth in Title 40 C.F.R. Parts 260, 264, 270, and 124 or else have their standard, technical meaning.

As used in this chapter, words in the masculine gender also include the feminine and neuter genders, words in the singular include the plural, and words in the plural include the singular.

AMENDATORY SECTION (Amending WSR 15-01-123, filed 12/18/14, effective 1/18/15)

WAC 173-303-045 References to EPA's hazardous waste and permit regulations. (1) Any references in this chapter to any parts, subparts, or sections from EPA's hazardous waste regulations, including 40 C.F.R. Parts 260 through 280 and Part 124, are in reference to those rules as they existed on (June 30, 2013) July 1, 2017. Copies of the appropriate referenced federal requirements are available upon request from the department.

(2) The following sections and any cross-reference to these sections are not incorporated or adopted by reference because they are provisions that EPA cannot delegate to states:

(a) 40 C.F.R. Parts 260.1 (b)(4)-(6).
(b) 40 C.F.R. Parts 264.1 (d) and (f); 265.1 (c)(4); 264.149-150 and 265.149-150; 264.301(l); and 265.430.
(c) 40 C.F.R. Parts 268.5 and 268.6; 268 Subpart B; 268.42(b) and 268.44 (a) through (g).
(d) 40 C.F.R. Parts 270.1 (c)(1)(i); 270.3; 270.60(b); and 270.64.
(e) 40 C.F.R. Parts 124.1 (b)- (e); 124.4; 124.5(e); 124.9; 124.10 (a)(1)(iv); 124.12(e); 124.14(d); 124.15 (b)(2); 124.16; 124.17(b); 124.18; 124.19; and 124.21.

(3) The following sections and any cross-references to these citations are not incorporated or adopted by reference: 40 C.F.R. Parts 260.20-260.22.

(4) Where EPA's regulations are incorporated by reference:
(a) "Regional administrator" means "the department."
(b) "Administrator" means "director."
(c) "Director" means "department."
(d) "40 C.F.R. 260.11" means "WAC 173-303-110(3)."
(e) These substitutions should be made as appropriate. They should not be made where noted otherwise in this chapter. They should
not be made where another EPA region is referred to, where a provision cannot be delegated to the state, or where the director referred to is the director of another agency.

AMENDATORY SECTION (Amending WSR 04-24-065, filed 11/30/04, effective 1/1/05)

WAC 173-303-060 Notification (and); identification numbers, and annual reports. (1) Any person who generates, transports, offers for transport, or transfers a dangerous waste, or who owns or operates a dangerous waste TSD facility or a recycling facility must have a current EPA/state identification number (EPA/state ID#). An EPA/state ID# is issued to TSD facilities, recycling facilities, and generators by site. A state registration number is assigned to transfer facilities by site. Any person who offers a dangerous waste to a transporter or to a dangerous waste TSD facility or recycling facility that does not have an EPA/state ID#, or whose EPA/state ID# has been canceled or withdrawn, is in violation of this regulation.

(2) Every person who must have an EPA/state ID#, and who has not already received their ID#, must notify the department by obtaining and completing a Washington State Dangerous Waste Site Identification Form according to the instructions on the form and submitting the completed form to the department. Any person already assigned an EPA/state ID# must notify the department of any changes to their company's name, mailing address, ownership, physical location, or type of dangerous waste activity, by submitting a revised form. A revised form must be submitted prior to adding or dropping any of the following activities: Permitted treating, storing and/or disposing, immediate recycling, transporting, permit by rule, and/or treatment by generator. Any change in site location will require the issuance of a new EPA/state ID# for waste generation and management facilities. An existing EPA/state ID# (may not be used at) cannot be transferred to a new company location(e). A company that has obtained an ID# as a "transporter only" (e.g., those who do not store or generate waste on site) can move to a new location and continue to use the same ID#. A revised Dangerous Waste Site Identification Form must be submitted to the department. A Dangerous Waste Site Identification Form and instructions for its completion may be obtained by contacting the department.

(3) Any person with an EPA/state ID# may request that (his) their ID# be withdrawn if (he) they will no longer be handling dangerous waste at the site the ID# has been assigned to. Any person whose ID# has been withdrawn must notify the department before (he uses) they use the ID# at any later date. Notification must be in writing, except in the case of emergencies (e.g., fires, spills, etc.) such notification may be provided by telephone first, and followed within one week by a written notification. Withdrawal will only be granted when all applicable requirements of this chapter and chapter 173-305 WAC have been met.

(4) Any person with an EPA/state ID# may request that (his) their ID# be (cancelled if he) withdrawn if they will no longer occupy the site. Notification must be in writing. An EPA/state ID# will be considered cancelled withdrawn only after all applicable requirements of this chapter and chapter 173-305 WAC have been met.
Any person with a current EPA/state ID# must submit an annual report as required by WAC 173-303-070(8), 173-303-170 (2)(a)(i), 173-303-220, 173-303-120, 173-303-390, and 173-303-515. Any person who has withdrawn (or cancelled) their ID# must submit an annual report up to the effective date of (cancellation or) withdrawal. The generator should write the effective date on the Dangerous Waste Site Identification Form for the ((cancellation or)) withdrawal; it is the date by which all regulated waste activities (generation, transportation, and management) have ceased at the site.

A recognized trader must not arrange for import or export of dangerous waste without having received an EPA/state ID# from the department.

AMENDATORY SECTION (Amending WSR 15-01-123, filed 12/18/14, effective 1/18/15)

WAC 173-303-070 Designation of dangerous waste. (1) Purpose and applicability.
   (a) This section describes the procedures for determining whether or not a solid waste is DW or EHW.
   (b) The procedures in this section are applicable to any person who generates a solid waste, as defined in WAC 173-303-016(τ) (including recyclable materials) that is not exempted or excluded by this chapter, or by the department, or who discovers an unknown material, or who is directed to or must further designate waste by subsection (4) or (5) of this section. Any person who generates a solid waste or discovers an unknown material must (determine) make an accurate determination if that waste or unknown material is a dangerous waste in order to ensure wastes are properly managed according to applicable dangerous waste regulations. A dangerous waste determination is made by following the designation procedures set forth in subsection (3) of this section. Any person who determines by these procedures that their waste is designated DW or EHW is subject to all applicable requirements of this chapter.
   (c) The requirements for the small quantity generator exemption are found in subsection (8) of this section.)

(2)(a) Except as provided at WAC 173-303-070 (2)(c), once a material has been determined to be a dangerous waste, then any solid waste generated from the recycling, treatment, storage, or disposal of that dangerous waste is a dangerous waste unless and until:
   (i) The generator has been able to accurately describe the variability or uniformity of the waste over time, and has been able to obtain demonstration samples which are representative of the waste's variability or uniformity; and
   (ii)(A) It does not exhibit any of the characteristics of WAC 173-303-090; however, wastes that exhibit a characteristic at the point of generation may still be subject to the requirements of WAC 173-303-140 (2)(a), even if they no longer exhibit a characteristic at the point of land disposal; and
   (B) If it was a listed waste under WAC 173-303-080 through 173-303-083, it also has been exempted pursuant to WAC 173-303-910(3); or
   (iii) If originally designated only through WAC 173-303-100, it does not meet any of the criteria of WAC 173-303-100. Such solid waste
will include, but not be limited to, any sludge, spill residue, ash, emission control dust, leachate, or precipitation runoff. Precipitation runoff will not be considered a dangerous waste if it can be shown that the runoff has not been contaminated with the dangerous waste, or that the runoff is adequately addressed under existing state laws (e.g., chapter 90.48 RCW), or that the runoff does not exhibit any of the criteria or characteristics described in WAC 173-303-100.

(b) Materials that are reclaimed from solid wastes and that are used beneficially (as provided in WAC 173-303-016 and 173-303-017) are not solid wastes and hence are not dangerous wastes under this section unless the reclaimed material is burned for energy recovery or used in a manner constituting disposal.

(c)(i) A dangerous waste that is listed in WAC 173-303-081(1) or 173-303-082(1) solely because it exhibits one or more characteristics of ignitability as defined under WAC 173-303-090(5), corrosivity as defined under WAC 173-303-090(6), or reactivity as defined under WAC 173-303-090(7) is not a dangerous waste, if the waste no longer exhibits any characteristic of dangerous waste identified in WAC 173-303-090 or any criteria identified in WAC 173-303-100.

(ii) The exclusion described in (c)(i) of this subsection also pertains to:

(A) Any solid waste generated from treating, storing, or disposing of a dangerous waste listed in WAC 173-303-081(1) or 173-303-082(1) solely because it exhibits the characteristics of ignitability, corrosivity, or reactivity as regulated under (a) and (b) of this section.

(B) Wastes excluded under this section are subject to 40 C.F.R. Part 268, which is incorporated by reference at WAC 173-303-140 (2)(a) (as applicable), even if they no longer exhibit a characteristic at the point of land disposal.

(3) Designation procedures.

(a) The dangerous waste designation for each solid waste must begin immediately at the point of waste generation or upon the discovery of an unknown material. This must be done before any dilution, mixing, or other alteration of the waste occurs, and at any time in the course of its management that it has, or may have, changed its properties as a result of exposure to the environment or other factors that may change the properties of the waste such that the solid waste or dangerous waste classification of the waste may change.

(b) A person must determine whether the solid waste is excluded from regulation under WAC 173-303-071.

(c) A person must check each section, in the order set forth in (d) of this subsection, to determine whether the waste is designated as a dangerous waste. When the waste is determined to be a dangerous waste following the steps in (d)(i) through (iii) of this subsection, further designation is not required except as required by subsection (4) or (5) of this section. If a person has checked the waste against each section and the waste is not designated, then the waste is not subject to the requirements of this chapter 173-303 WAC.

Any person who wishes to seek an exemption for a waste which has been designated DW or EHW must comply with the requirements of WAC 173-303-072.

(d) To determine whether or not a solid waste is designated as a dangerous waste a person must:

(i) First, determine if the waste is a listed discarded chemical product, WAC 173-303-081;
(ii) Second, determine if the waste is a listed dangerous waste source, WAC 173-303-082;

(iii) Third, (if the waste is not listed in WAC 173-303-081 or 173-303-082, or for the purposes of compliance with the federal land disposal restrictions as adopted by reference in WAC 173-303-140,) determine if the waste also exhibits ((any)) one or more dangerous waste characteristics, WAC 173-303-090; and

(iv) Fourth, if the waste is not listed in WAC 173-303-081 or 173-303-082, and does not exhibit a characteristic in WAC 173-303-090, determine if the waste meets ((any)) one or more dangerous waste criteria, WAC 173-303-100.

((b) A person must check each section, in the order set forth, until they determine whether the waste is designated as a dangerous waste. Once the waste is determined to be a dangerous waste, further designation is not required except as required by subsection (4) or (5) of this section. If a person has checked the waste against each section and the waste is not designated, then the waste is not subject to the requirements of chapter 173-303 WAC.

Any person who wishes to seek an exemption for a waste which has been designated DW or EHW must comply with the requirements of WAC 173-303-072.

((e)) (e) For the purpose of determining if a solid waste is a dangerous waste as identified in WAC 173-303-080 through 173-303-100, a person must either:

(i) Test the waste according to the methods, or an approved equivalent method, set forth in WAC 173-303-110; or

(ii) Apply knowledge of the waste in light of the materials or the process used, when:

(A) Such knowledge can be demonstrated to be sufficient for determining whether or not it designated and/or designated ((properly)) accurately; and

(B) All data and records supporting this determination in accordance with WAC 173-303-210(3) are retained on-site; and

(C) When available knowledge is inadequate or absent to make an accurate designation, the generator must test the waste according to the methods, or an approved equivalent method, set forth in WAC 173-303-110.

(f) Persons testing their waste must obtain a representative sample of the waste for the testing set forth in WAC 173-303-110.

(g) Test results from properly performed test methods specified in WAC 173-303-090 and 173-303-100 are definitive for determining the designation and regulatory status of the waste.

(4) Testing required. Notwithstanding any other provisions of this chapter, the department may require any person to test a waste according to the methods, or an approved equivalent method, set forth in WAC 173-303-110 to determine whether or not the waste is designated under the dangerous waste lists, characteristics, or criteria, WAC 173-303-080 through 173-303-100. Such testing may be required if the department has reason to believe that the waste would be designated DW or EHW by the dangerous waste lists, characteristics, or criteria, or if the department has reason to believe that the waste is designated improperly (e.g., the waste has been designated DW but should actually be designated EHW). If a person, pursuant to the requirements of this subsection, determines that the waste is a dangerous waste or that its designation must be changed, then they are subject to the applicable requirements of this chapter 173-303 WAC. The department will base a
requirement to test a waste on evidence that includes, but is not limited to:
(a) Test information indicating that the person's waste may be DW or EHW;
(b) Evidence that the person's waste is very similar to another persons' already designated DW or EHW;
(c) Evidence that the persons' waste has historically been a DW or EHW;
(d) Evidence or information about a person's manufacturing materials or processes which indicate that the wastes may be DW or EHW; or
(e) Evidence that the knowledge or test results a person has regarding a waste is not sufficient for determining whether or not it designated and/or designated (properly) accurately.

(5) Additional designation required. A generator must manage dangerous waste under the most stringent management standards that apply. The following subsections describe how waste that has been designated as DW under the dangerous waste lists, WAC 173-303-080 through 173-303-082, or characteristics, WAC 173-303-090, or in the case of (c) of this subsection, under the lists, characteristics, or criteria, must be further designated under the dangerous waste criteria, WAC 173-303-100. This further designation under the criteria is necessary because it may change how the waste must be managed. Additional designation is required when:
(a) The waste is designated as DW with a QEL of 220 pounds and the generator otherwise qualifies as a small quantity generator. In this case, a generator must determine if their DW is also designated as a toxic EHW, WAC 173-303-100, with a QEL of 2.2 pounds; or
(b) The waste is designated as DW and the waste is to be discharged to a POTW operating under WAC 173-303-802(4) (Permits by rule). In this case, a generator must determine if the waste is also an EHW under WAC 173-303-100; or
(c) The waste is designated as a state-only DW and the waste is to be:
   (i) Burned for energy recovery, as used oil, under the provisions of WAC 173-303-515; or
   (ii) Land disposed within the state. In this case, a generator must determine if the waste is also an EHW under WAC 173-303-100.
(6) Dangerous waste numbers. When a person is designating, reporting, or keeping records on a dangerous waste, they must use all the dangerous waste numbers which they know are assignable to the waste from the dangerous waste lists, characteristics, or criteria. For example, if the waste is ignitable and contains more than 5 mg/l leachable lead when tested for the toxicity characteristic, they must use the dangerous waste numbers of D001 and D008. This will not be construed as requiring a person to designate their waste beyond those designation requirements set forth in subsections (2)(3)(4), and (5) of this section.

((7) Quantity exclusion limits; aggregated waste quantities.
(a) Quantity exclusion limits. In each of the designation sections describing the lists, characteristics, and criteria, quantity exclusion limits (QEL) are identified. The QEL are used to distinguish when a dangerous waste is only subject to the small quantity generator provisions, and when a dangerous waste is subject to the full requirements of this chapter. Any solid waste which is not excluded or exempted and which is listed by or exhibits the characteristics or meets the criteria of this chapter is a dangerous waste. Small quantity gen-
operators who produce dangerous waste below the QEL are subject to the requirements described in subsection (8) of this section.

(b) Aggregated waste quantities. A person may be generating, accumulating, or storing more than one kind of dangerous waste. In such cases, they must consider the aggregate quantity of their wastes when determining whether or not their waste amounts exceed the specific limits for waste accumulation or the specific quantity exclusion limits (QEL) for waste generation. Waste quantities must be aggregated for all wastes with common QELs. Example: If a person generates 100 pounds of an ignitable waste and 130 pounds of a persistent waste, then both wastes are regulated because their aggregate waste quantity (230 pounds) exceeds their common QEL of 220 pounds. On the other hand, if a person generates one pound of a toxic EHW and 218 pounds of a corrosive waste, their quantities would not be aggregated because they do not share a common QEL (2.2 pounds and 220 pounds, respective QELs). (Note: In order to remain a small quantity generator, the total quantity of dangerous waste generated in one month, all DW and EHW regardless of their QELs, must not equal or exceed 220 pounds. Not more than 2.2 pounds of a waste with a 2.2 pound QEL may be part of that total.)

(c) When making the quantity determinations of this subsection and WAC 173-303-170 through 173-303-230, generators must include all dangerous wastes they generate, except dangerous waste that:

(i) Is exempt from regulation under WAC 173-303-071; or
(ii) Is recycled under WAC 173-303-120 (2)(a), (3)(e), (e), (h) or (5); or
(iii) Is managed in accordance with WAC 173-303-802(5) immediately upon generation only in on-site elementary neutralization units, wastewater treatment units, or totally enclosed treatment facilities as defined in WAC 173-303-040; or
(iv) Is recycled, without prior storage or accumulation, only in an on-site process subject to regulation under WAC 173-303-120 (4)(a); or
(v) Is spent lead-acid batteries managed under the requirements of WAC 173-303-120 (3)(f) and 173-303-520; or
(vi) Is universal waste managed under WAC 173-303-077 and 173-303-573; or
(vii) Is a dangerous waste that is an unused commercial chemical product (listed in WAC 173-303-9903 or exhibiting one or more characteristics or criteria listed in WAC 173-303-090 or 173-303-100) that is generated solely as a result of a laboratory clean-out conducted at an eligible academic entity pursuant to WAC 173-303-235(14). For purposes of this provision, the term eligible academic entity shall have the meaning as defined in WAC 173-303-235(1).

(d) In determining the quantity of dangerous waste generated, a generator need not include:

(i) Dangerous waste when it is removed from on-site storage; or
(ii) Reserve; or
(iii) Spent materials that are generated, reclaimed, and subsequently reused on-site, as long as such spent materials have been counted once (Note: If after treatment or reclamation a residue is generated with a different waste code(s), that residue must be counted); or
(iv) The container holding/containing the dangerous waste as described under WAC 173-303-160(1).

(8) Small quantity generators.
(a) A person is a small quantity generator and subject to the requirements of this subsection if:

(i) Their waste is dangerous waste under subsection (3) of this section, and the quantity of waste generated per month (or the aggregated quantity if more than one kind of waste is generated) does not equal or exceed the quantity exclusion limit (QEL) for such waste (or wastes) as described in WAC 173-303-070(7); and

(ii) The quantity accumulated or stored does not exceed 2200 pounds for wastes with a 220 pound QEL and 2.2 pounds for waste with a 2.2 pound QEL. (Exception: The accumulation limit for the acute hazardous wastes described in WAC 173-303-081 (2)(iv) and 173-303-082 (2)(b) is 220 lbs); and

(iii) The total quantity of dangerous waste generated in one month, all DW and EHW regardless of their QELs, does not equal or exceed 220 pounds. If a person generates any dangerous wastes that exceed the QEL or accumulates or stores waste that exceeds the accumulation limits, then all dangerous waste generated, accumulated, or stored by that person is subject to the requirements of this chapter. A small quantity generator who generates in excess of the quantity exclusion limits or, accumulates, or stores waste in excess of the accumulation limits becomes subject to the full requirements of this chapter and cannot again be a small quantity generator until after all dangerous waste on-site at the time he or she became fully regulated have been removed, treated, or disposed.

Example. If a person generates four pounds of an acute hazardous waste discarded chemical product (QEL is 2.2 pounds) and 200 pounds of an ignitable waste (QEL is 220 pounds), then both wastes are fully regulated, and the person is not a small quantity generator for either waste.

(Comment: If a generator generates acute hazardous waste in a calendar month in quantities greater than the QELs, all quantities of that acute hazardous waste are subject to full regulation under this chapter. "Full regulation" means the regulations applicable to generators of 2200 pounds or greater of dangerous wastes in a calendar month.)

(b) Small quantity generators will not be subject to the requirements of this chapter if they:

(i) Designate their waste in accordance with WAC 173-303-070; and

(ii) Manage their waste in a way that does not pose a potential threat to human health or the environment; and

(iii) Either treat or dispose of their dangerous waste in an on-site facility, or ensure delivery to an off-site facility, either of which, if located in the United States, is:

(A) Permitted (including permit by rule, interim status, or final status) under WAC 173-303-800 through 173-303-840;

(B) Authorized to manage dangerous waste by another state with a hazardous waste program approved under 40 C.F.R. Part 271, or by EPA under 40 C.F.R. Part 270;

(C) Permitted to manage moderate-risk waste under chapter 173-350 WAC (Solid waste handling standards), operated in accordance with state and local regulations, and consistent with the applicable local hazardous waste plan that has been approved by the department;

(D) A facility that beneficially uses or reuses, or legitimately recycles or reclaims the dangerous waste, or that treats the waste prior to such recycling activities;
(E) Permitted, licensed, or registered to manage municipal solid waste and, if managed in a municipal solid waste landfill is subject to 40 C.F.R. Part 258 or chapter 173-351 WAC;

(F) Permitted, licensed, or registered by a state to manage nonmunicipal nonhazardous waste and, if managed in a nonmunicipal nonhazardous waste disposal unit after January 1, 1998, is subject to the requirements in 40 C.F.R. 257.5 through 257.30;

(G) A publicly owned treatment works (POTW); Provided, That small quantity generator(s) comply with the provisions of the domestic sewage exclusion found in WAC 173-303-071 (3)(a); or

(H) For universal waste managed under WAC 173-303-573, a universal waste handler or destination facility subject to the requirements of WAC 173-303-573; and

(iv) Submit an annual report in accordance with WAC 173-303-220 if they have obtained an EPA/state identification number pursuant to WAC 173-303-060.

(c) If a small quantity generator's wastes are mixed with used oil, the mixture is subject to WAC 173-303-510 if it is destined to be burned for energy recovery. Any material produced from such a mixture by processing, blending, or other treatment is also so regulated if it is destined to be burned for energy recovery.

(d) If a small quantity generator's used oil is to be recycled by being burned for energy recovery or re-refined, the used oil is subject to WAC 173-303-515.)

AMENDATORY SECTION (Amending WSR 15-01-123, filed 12/18/14, effective 1/18/15)

WAC 173-303-071 Excluded categories of waste. (1) Purpose. Certain categories of waste have been excluded from many of the requirements of chapter 173-303 WAC, except for WAC 173-303-050, because they generally are not dangerous waste, are regulated under other state and federal programs, or are recycled in ways which do not threaten public health or the environment. WAC 173-303-071 describes these excluded categories of waste.

(2) Excluding wastes. Any persons who generate a common class of wastes and who seek to categorically exclude such class of wastes from the requirements of this chapter must comply with the applicable requirements of WAC 173-303-072. No waste class will be excluded if any of the wastes in the class are regulated as hazardous waste under 40 C.F.R. Part 261.

(3) Exclusions. The following categories of waste are excluded from the requirements of chapter 173-303 WAC, except for WAC 173-303-050, 173-303-145, and 173-303-960, and as otherwise specified:

(a)(i) Domestic sewage; and

(ii) Any mixture of domestic sewage and other wastes that passes through a sewer system to a publicly owned treatment works (POTW) for treatment provided:

(A) The generator or owner/operator has obtained a state waste discharge permit issued by the department, a temporary permit obtained pursuant to RCW 90.48.200, or pretreatment permit (or written discharge authorization) from a local sewage utility delegated pretreatment program responsibilities pursuant to RCW 90.48.165;
(B) The waste discharge is specifically authorized in a state waste discharge permit, pretreatment permit or written discharge authorization, or in the case of a temporary permit the waste is accurately described in the permit application;

(C) The waste discharge is not prohibited under 40 C.F.R. Part 403.5; and

(D) The waste prior to mixing with domestic sewage must not exhibit dangerous waste characteristics for ignitability, corrosivity, reactivity, or toxicity as defined in WAC 173-303-090, and must not meet the dangerous waste criteria for toxic dangerous waste or persistent dangerous waste under WAC 173-303-100, unless the waste is treatable in the publicly owned treatment works (POTW) where it will be received. This exclusion does not apply to the generation, treatment, storage, recycling, or other management of dangerous wastes prior to discharge into the sanitary sewage system;

(b) Industrial wastewater discharges that are point-source discharges subject to regulation under Section 402 of the Clean Water Act. This exclusion does not apply to the collection, storage, or treatment of industrial waste-waters prior to discharge, nor to sludges that are generated during industrial wastewater treatment. Owners or operators of certain wastewater treatment facilities managing dangerous wastes may qualify for a permit-by-rule pursuant to WAC 173-303-802(5);

(c) Household wastes, including household waste that has been collected, transported, stored, or disposed. Wastes that are residues from or are generated by the management of household wastes (e.g., leachate, ash from burning of refuse-derived fuel) are not excluded by this provision. "Household wastes" means any waste material (including, but not limited to, garbage, trash, and sanitary wastes in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas). A resource recovery facility managing municipal solid waste will not be deemed to be treating, storing, disposing of, or otherwise managing dangerous wastes for the purposes of regulation under this chapter, if such facility:

(i) Receives and burns only:
   (A) Household waste (from single and multiple dwellings, hotels, motels, and other residential sources); and
   (B) Solid waste from commercial or industrial sources that does not contain dangerous waste; and
   (ii) Such facility does not accept dangerous wastes and the owner or operator of such facility has established contractual requirements or other appropriate notification or inspection procedures to assure that dangerous wastes are not received at or burned in such facility;

(d) Agricultural crops and animal manures which are returned to the soil as fertilizers;

(e) Asphaltic materials designated only for the presence of PAHs by WAC 173-303-100(6). For the purposes of this exclusion, asphaltic materials means materials that have been used for structural and construction purposes (e.g., roads, dikes, paving) that were produced from mixtures of oil and sand, gravel, ash or similar substances;

(f) Roofing tars and shingles, except that these wastes are not excluded if mixed with wastes listed in WAC 173-303-081 or 173-303-082, or if they exhibit any of the characteristics specified in WAC 173-303-090;

(g) Treated wood waste and wood products including:
Arsenical-treated wood that fails the test for the toxicity characteristic of WAC 173-303-090(8) (dangerous waste numbers D004 through D017 only) or that fails any state criteria, if the waste is generated by persons who utilize the arsenical-treated wood for the materials' intended end use. Intended end use means the wood products must have been used in typical treated wood applications (for example, fence posts, decking, poles, and timbers).

Wood treated with other preservatives provided such treated wood and wood waste (for example, sawdust and shavings) are, within one hundred eighty days after becoming waste:

(A) Disposed of at a landfill that is permitted in accordance with chapter 173-350 WAC, Solid waste handling standards, or chapter 173-351 WAC, criteria for municipal solid waste landfills, and provided that such wood is neither a listed waste under WAC 173-303-9903 and 173-303-9904 nor a TCLP waste under WAC 173-303-090(8); or

(B) Sent to a facility that will legitimately treat or recycle the treated wood waste, and manage any residue in accordance with that state's dangerous waste regulations; or

(C) Sent off-site to a permitted TSD facility or placed in an on-site facility which is permitted by the department under WAC 173-303-800 through 173-303-845. In addition, creosote-treated wood is excluded when burned for energy recovery in an industrial furnace or boiler that has an order of approval issued pursuant to RCW 70.94.152 by ecology or a local air pollution control authority to burn creosote treated wood.

(h) Irrigation return flows;

(i) [(Reserved)] (Reserved);

(j) Mining overburden returned to the mining site;

(k) Polychlorinated biphenyl (PCB) wastes:

(l) PCB [(wastes)] containing dielectric fluid and electric equipment containing such fluid, and any PCB wastes meeting (k)(i)(B) of this subsection, whose disposal is regulated by EPA under 40 C.F.R. (761.60) 761 (Toxic Substances Control Act) and that are dangerous either because:

(A) They fail the test for toxicity characteristic (WAC 173-303-090(8), Dangerous waste codes D018 through D043 only); or

(B) Because they are designated only by this chapter and not designated by 40 C.F.R. Part 261, are exempt from regulation under this chapter except for WAC 173-303-505 through 173-303-525, 173-303-960, those sections specified in subsection (3) of this section, and 40 C.F.R. Part 266;

(ii) Wastes that would be designated as dangerous waste under this chapter solely because they are listed as WPCB under WAC 173-303-9904 when such wastes are stored and disposed in a manner equivalent to the requirements of 40 C.F.R. Part 761 Subpart D for PCB concentrations of 50 ppm or greater.

(i) Samples:

(i) Except as provided in (l)(ii) and (iv) of this subsection, a sample of solid waste or a sample of water, soil, or air, which is collected for the sole purpose of testing to determine its characteristics or composition, is not subject to any requirements of this chapter, when:

(A) The sample is being transported to a lab for testing or being transported to the sample collector after testing; or

(B) The sample is being stored by the sample collector before transport, by the laboratory before testing, or by the laboratory after testing prior to return to the sample collector; or
(C) The sample is being stored temporarily in the laboratory after testing for a specific purpose (for example, until conclusion of a court case or enforcement action).

(ii) In order to qualify for the exemptions in (l)(i) of this subsection, a sample collector shipping samples to a laboratory and a laboratory returning samples to a sample collector must:

(A) Comply with United States Department of Transportation (DOT), United States Postal Service (USPS), or any other applicable shipping requirements; or

(B) Comply with the following requirements if the sample collector determines that DOT or USPS, or other shipping requirements do not apply:

(I) Assure that the following information accompanies the sample:

(AA) The sample collector's name, mailing address, and telephone number;

(BB) The laboratory's name, mailing address, and telephone number;

(CC) The quantity of the sample;

-DD) The date of shipment;

(EE) A description of the sample; and

(II) Package the sample so that it does not leak, spill, or vaporize from its packaging.

(iii) This exemption does not apply if the laboratory determines that the waste is dangerous but the laboratory is no longer meeting any of the conditions stated in (l)(i) of this subsection;

(iv) In order to qualify for the exemption in (l)(i) and (ii) of this subsection, the mass of a sample that will be exported to a foreign laboratory or that will be imported to a U.S. laboratory from a foreign source must additionally not exceed 25 kg.

(m) (Reserved);

(n) Dangerous waste generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or in a manufacturing process unit or an associated nonwaste-treatment-manufacturing unit until it exits the unit in which it was generated. This exclusion does not apply to surface impoundments, nor does it apply if the dangerous waste remains in the unit more than ninety days after the unit ceases to be operated for manufacturing, or for storage or transportation of product or raw materials;

(o) Waste pickle liquor sludge generated by lime stabilization of spent pickle liquor from the iron and steel industry (NAICS codes 331111 and 332111), except that these wastes are not excluded if they exhibit one or more of the dangerous waste criteria (WAC 173-303-100) or characteristics (WAC 173-303-090);

(p) Wastes from burning any of the materials exempted from regulation by WAC 173-303-120 (2)(a)(vii) and (viii). These wastes are not excluded if they exhibit one or more of the dangerous waste characteristics or criteria;

(q) As of January 1, 1987, secondary materials that are reclaimed and returned to the original process or processes in which they were generated where they are reused in the production process provided:

(i) Only tank storage is involved, and the entire process through completion of reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance;

(ii) Reclamation does not involve controlled flame combustion (such as occurs in boilers, industrial furnaces, or incinerators);
The secondary materials are never accumulated in such tanks for over twelve months without being reclaimed;

The reclaimed material is not used to produce a fuel, or used to produce products that are used in a manner constituting disposal; and

A generator complies with the requirements of chapter 173-303 WAC for any residues (e.g., sludges, filters, etc.) produced from the collection, reclamation, and reuse of the secondary materials.

Treatability study samples.

Except as provided in (r)(ii) and (iv) of this subsection, persons who generate or collect samples for the purpose of conducting treatability studies as defined in WAC 173-303-040 are not subject to the requirements of WAC 173-303-180, 173-303-190, and 173-303-200 (l)(a), nor are such samples included in the quantity determinations of WAC 173-303-070 (7) and (8) and 173-303-201 when:

(A) The sample is being collected and prepared for transportation by the generator or sample collector; or

(B) The sample is being accumulated or stored by the generator or sample collector prior to transportation to a laboratory or testing facility; or

(C) The sample is being transported to the laboratory or testing facility for the purpose of conducting a treatability study; or

(D) The sample or waste residue is being transported back to the original generator from the laboratory or testing facility.

The exemption in (r)(i) of this subsection is applicable to samples of dangerous waste being collected and shipped for the purpose of conducting treatability studies provided that:

(A) The generator or sample collector uses (in "treatability studies") no more than 10,000 kg of media contaminated with nonacute dangerous waste, 1000 kg of nonacute dangerous waste other than contaminated media, 1 kg of acutely hazardous waste, 2500 kg of media contaminated with acutely hazardous waste for each process being evaluated for each generated waste stream; and

(B) The mass of each sample shipment does not exceed 10,000 kg; the 10,000 kg quantity may be all media contaminated with nonacute dangerous waste or may include 2500 kg of media contaminated with acute hazardous waste, 1000 kg of dangerous waste, and 1 kg of acutely hazardous waste; and

(C) The sample must be packaged so that it will not leak, spill, or vaporize from its packaging during shipment and the requirements of (r)(ii)(C)(I) or (II) of this subsection are met.

The transportation of each sample shipment complies with United States Department of Transportation (DOT), United States Postal Service (USPS), or any other applicable shipping requirements; or

If the DOT, USPS, or other shipping requirements do not apply to the shipment of the sample, the following information must accompany the sample:

(AA) The name, mailing address, and telephone number of the originator of the sample;

(BB) The name, address, and telephone number of the laboratory or testing facility that will perform the treatability study;

(CC) The quantity of the sample;

(DD) The date of shipment; and

(EE) A description of the sample, including its dangerous waste number.

The sample is shipped, within ninety days of being generated or of being taken from a stream of previously generated waste, to a
laboratory or testing facility which is exempt under (s) of this sub-
section or has an appropriate final facility permit or interim status; and

(E) The generator or sample collector maintains the following rec-
ords for a period ending three years after completion of the treata-
bility study:
(I) Copies of the shipping documents;
(II) A copy of the contract with the facility conducting the treatability study;
(III) Documentation showing:
(AA) The amount of waste shipped under this exemption;
(BB) The name, address, and EPA/state identification number of the laboratory or testing facility that received the waste;
(CC) The date the shipment was made; and
(DD) Whether or not unused samples and residues were returned to the generator.

(F) The generator reports the information required under
(r)(ii)(E)(III) of this subsection in its annual report.

(iii) The department may grant requests, on a case-by-case basis, for up to an additional two years for treatability studies involving bioremediation. The department may grant requests on a case-by-case basis for quantity limits in excess of those specified in (r)(ii)(A) and (B) of this subsection and (s)(iv) of this subsection, for up to an additional 5000 kg of media contaminated with nonacute dangerous waste, 500 kg of nonacute dangerous waste, 1 kg of acute hazardous waste, and 2500 kg of media contaminated with acute hazardous waste or for up to an additional 10,000 kg of wastes regulated only by this chapter and not regulated by 40 C.F.R. Part 261, to conduct further treatability study evaluation:

(A) In response to requests for authorization to ship, store and conduct treatability studies on additional quantities in advance of commencing treatability studies. Factors to be considered in reviewing such requests include the nature of the technology, the type of proc-
ess, (e.g., batch versus continuous), size of the unit undergoing testing (particularly in relation to scale-up considerations), the time/quantity of material required to reach steady state operating conditions, or test design considerations such as mass balance calcula-
tions.

(B) In response to requests for authorization to ship, store, and conduct treatability studies on additional quantities after initiation or completion of initial treatability studies, when:
There has been an equipment or mechanical failure during the con-
duct of a treatability study; there is a need to verify the results of previously conducted treatability study; there is a need to study and analyze alternative techniques within a previously evaluated treatment process; or there is a need to do further evaluation of an ongoing treatability study to determine final specifications for treatment.

(C) The additional quantities and time frames allowed in
(r)(iii)(A) and (B) of this subsection are subject to all the provi-
sions in (r)(i) and (r)(ii)(C) through (F) of this subsection. The generator or sample collector must apply to the department where the sample is collected and provide in writing the following information:
(I) The reason the generator or sample collector requires addi-
tional time or quantity of sample for the treatability study evalua-
tion and the additional time or quantity needed;
(II) Documentation accounting for all samples of dangerous waste from the waste stream which have been sent for or undergone treatabil-
ity studies including the date each previous sample from the waste stream was shipped, the quantity of each previous shipment, the laboratory or testing facility to which it was shipped, what treatability study processes were conducted on each sample shipped, and the available results of each treatability study;

(III) A description of the technical modifications or change in specifications which will be evaluated and the expected results;

(IV) If such further study is being required due to equipment or mechanical failure, the applicant must include information regarding the reason for the failure or breakdown and also include what procedures or equipment improvements have been made to protect against further breakdowns; and

(V) Such other information that the department considers necessary.

(iv) In order to qualify for the exemption in (r)(i) and (ii) of this subsection, the mass of a sample that will be exported to a foreign laboratory or testing facility, or that will be imported to a U.S. laboratory or testing facility from a foreign source must additionally not exceed 25 kg.

(s) Samples undergoing treatability studies at laboratories and testing facilities. Samples undergoing treatability studies and the laboratory or testing facility conducting such treatability studies (to the extent such facilities are not otherwise subject to chapter 70.105 RCW) are not subject to the requirements of this chapter, except WAC 173-303-050, 173-303-145, and 173-303-960 provided that the conditions of (s)(i) through (xiii) of this subsection are met. A mobile treatment unit (MTU) may qualify as a testing facility subject to (s)(i) through (xiii) of this subsection. Where a group of MTUs are located at the same site, the limitations specified in (s)(i) through (xiii) of this subsection apply to the entire group of MTUs collectively as if the group were one MTU.

(i) No less than forty-five days before conducting treatability studies the laboratory or testing facility notifies the department in writing that it intends to conduct treatability studies under this subsection.

(ii) The laboratory or testing facility conducting the treatability study has an EPA/state identification number.

(iii) No more than a total of 10,000 kg of "as received" media contaminated with nonacute dangerous waste, 2500 kg of media contaminated with acute hazardous waste or 250 kg of other "as received" dangerous waste is subject to initiation of treatment in all treatability studies in any single day. "As received" waste refers to the waste as received in the shipment from the generator or sample collector.

(iv) The quantity of "as received" dangerous waste stored at the facility for the purpose of evaluation in treatability studies does not exceed 10,000 kg, the total of which can include 10,000 kg of media contaminated with nonacute dangerous waste, 2500 kg of media contaminated with acute hazardous waste, 1000 kg of nonacute dangerous wastes other than contaminated media, and 1 kg of acutely hazardous waste. This quantity limitation does not include treatment materials (including nondangerous solid waste) added to "as received" dangerous waste.

(v) No more than ninety days have elapsed since the treatability study for the sample was completed, or no more than one year (two years for treatability studies involving bioremediation) has elapsed since the generator or sample collector shipped the sample to the laboratory or testing facility, whichever date first occurs. Up to 500 kg
of treated material from a particular waste stream from treatability studies may be archived for future evaluation up to five years from the date of initial receipt. Quantities of materials archived are counted against the total storage limit for the facility.

(vi) The treatability study does not involve the placement of dangerous waste on the land or open burning of dangerous waste.

(vii) The laboratory or testing facility maintains records for three years following completion of each study that show compliance with the treatment rate limits and the storage time and quantity limits. The following specific information must be included for each treatability study conducted:

(A) The name, address, and EPA/state identification number of the generator or sample collector of each waste sample;
(B) The date the shipment was received;
(C) The quantity of waste accepted;
(D) The quantity of "as received" waste in storage each day;
(E) The date the treatment study was initiated and the amount of "as received" waste introduced to treatment each day;
(F) The date the treatability study was concluded;
(G) The date any unused sample or residues generated from the treatability study were returned to the generator or sample collector or, if sent to a designated TSD facility, the name of the TSD facility and its EPA/state identification number.

(viii) The laboratory or testing facility keeps, on-site, a copy of the treatability study contract and all shipping papers associated with the transport of treatability study samples to and from the facility for a period ending three years from the completion date of each treatability study.

(ix) The laboratory or testing facility prepares and submits a report to the department by March 15 of each year that estimates the number of studies and the amount of waste expected to be used in treatability studies during the current year, and includes the following information for the previous calendar year:

(A) The name, address, and EPA/state identification number of the laboratory or testing facility conducting the treatability studies;
(B) The types (by process) of treatability studies conducted;
(C) The names and addresses of persons for whom studies have been conducted (including their EPA/state identification numbers);
(D) The total quantity of waste in storage each day;
(E) The quantity and types of waste subjected to treatability studies;
(F) When each treatability study was conducted;
(G) The final disposition of residues and unused sample from each treatability study.

(x) The laboratory or testing facility determines whether any unused sample or residues generated by the treatability study are dangerous waste under WAC 173-303-070 and if so, are subject to the requirements of this chapter, unless the residues and unused samples are returned to the sample originator under the exemption in (r) of this subsection.

(xi) The laboratory or testing facility notifies the department by letter when it is no longer planning to conduct any treatability studies at the site.

(xii) The date the sample was received, or if the treatability study has been completed, the date of the treatability study, is marked and clearly visible for inspection on each container.
(xiii) While being held on site, each container and tank is labeled or marked clearly with the words "dangerous waste" or "hazardous waste." Each container or tank must also be marked with a label or sign which identifies the major ((risk(s))) hazard(s) associated with the waste in the container or tank for employees, emergency response personnel and the public.

((Note: If there is already a system in use that performs this function in accordance with local, state, or federal regulations, then such system will be adequate.))

(t) Petroleum-contaminated media and debris that fail the test for the toxicity characteristic of WAC 173-303-090(8) (dangerous waste numbers D018 through D043 only) and are subject to the corrective action regulations under 40 C.F.R. Part 280.

(u) Special incinerator ash (as defined in WAC 173-303-040).

(v) Wood ash that would designate solely for corrosivity by WAC 173-303-090 (6)(a)(iii). For the purpose of this exclusion, wood ash means ash residue and emission control dust generated from the combustion of untreated wood, wood treated solely with creosote, and untreated wood fiber materials including, but not limited to, wood chips, saw dust, tree stumps, paper, cardboard, residuals from waste fiber recycling, deinking rejects, and associated wastewater treatment solids. This exclusion allows for the use of auxiliary fuels including, but not limited to, oils, gas, coal, and other fossil fuels in the combustion process.

(w)(i) Spent wood preserving solutions that have been reclaimed and are reused for their original intended purpose; and

(ii) Wastewaters from the wood preserving process that have been reclaimed and are reused to treat wood.

(iii) Prior to reuse, the wood preserving wastewaters and spent wood preserving solutions described in (w)(i) and (ii) of this subsection, so long as they meet all of the following conditions:

(A) The wood preserving wastewaters and spent wood preserving solutions are reused on-site at water borne plants in the production process for their original intended purpose;

(B) Prior to reuse, the wastewaters and spent wood preserving solutions are managed to prevent release to either land or groundwater or both;

(C) Any unit used to manage wastewaters and/or spent wood preserving solutions prior to reuse can be visually or otherwise determined to prevent such releases;

(D) Any drip pad used to manage the wastewaters and/or spent wood preserving solutions prior to reuse complies with the standards in Part 265, Subpart W which is incorporated by reference at WAC 173-303-400 (3)(a), regardless of whether the plant generates a total of less than 220 pounds/month of dangerous waste; and

(E) Prior to operating pursuant to this exclusion, the plant owner or operator submits to the department a one-time notification stating that the plant intends to claim the exclusion, giving the date on which the plant intends to begin operating under the exclusion, and containing the following language: "I have read the applicable regulation establishing an exclusion for wood preserving wastewaters and spent wood preserving solutions and understand it requires me to comply at all times with the conditions set out in the regulation." The plant must maintain a copy of that document in its on-site records for a period of no less than three years from the date specified in the notice. The exclusion applies only so long as the plant meets all of the conditions. If the plant goes out of compliance with any condition, it may apply to the department for reinstatement. The department
may reinstate the exclusion upon finding that the plant has returned to compliance with all conditions and that violations are not likely to recur.

(F) Additional reports.
(I) Upon determination by the department that the storage of wood preserving wastewaters and spent wood preserving solutions in tanks and/or containers poses a threat to public health or the environment, the department may require the owner/operator to provide additional information regarding the integrity of structures and equipment used to store wood preserving wastewaters and spent wood preserving solutions. This authority applies to tanks and secondary containment systems used to store wood preserving wastewaters and spent wood preserving solutions in tanks and containers. The department's determination of a threat to public health or the environment may be based upon observations of factors that would contribute to spills or releases of wood preserving wastewaters and spent wood preserving solutions or the generation of hazardous by-products. Such observations may include, but are not limited to, leaks, severe corrosion, structural defects or deterioration (cracks, gaps, separation of joints), inability to completely inspect tanks or structures, or concerns about the age or design specification of tanks.

(II) When required by the department, a qualified, independent professional engineer registered to practice in Washington state must perform the assessment of the integrity of tanks or secondary containment systems.

(III) Requirement for facility repairs and improvements. If, upon evaluation of information obtained by the department under (w)(iii)(F)(I) of this subsection, it is determined that repairs or structural improvements are necessary in order to eliminate threats, the department may require the owner/operator to discontinue the use of the tank system or container storage unit and remove the wood preserving wastewaters and spent wood preserving solutions until such repairs or improvements are completed and approved by the department.

(x) Nonwastewater splash condenser dross residue from the treatment of K061 in high temperature metals recovery units, provided it is shipped in drums (if shipped) and not land disposed before recovery.

(y) Used oil filters that are recycled in accordance with WAC 173-303-120, as used oil and scrap metal.

(z) Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products.

(aa)(i) Wastes that fail the test for the toxicity characteristic in WAC 173-303-090 because chromium is present or are listed in WAC 173-303-081 or 173-303-082 due to the presence of chromium. The waste must not designate for any other characteristic under WAC 173-303-090, for any of the criteria specified in WAC 173-303-100, and must not be listed in WAC 173-303-081 or 173-303-082 due to the presence of any constituent from WAC 173-303-9905 other than chromium. The waste generator must be able to demonstrate that:

(A) The chromium in the waste is exclusively (or nearly exclusively) trivalent chromium; and

(B) The waste is generated from an industrial process that uses trivalent chromium exclusively (or nearly exclusively) and the process does not generate hexavalent chromium; and

(C) The waste is typically and frequently managed in nonoxidizing environments.

(ii) Specific wastes which meet the standard in (aa)(i)(A), (B), and (C) of this subsection (so long as they do not fail the test for
the toxicity characteristic for any other constituent, and do not exhibit any other characteristic) are:

(A) Chrome (blue) trimmings generated by the following subcategories of the leather tanning and finishing industry: Hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling.

(B) Chrome (blue) shavings generated by the following subcategories of the leather tanning and finishing industry: Hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling.

(C) Buffing dust generated by the following subcategories of the leather tanning and finishing industry: Hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue.

(D) Sewer screenings generated by the following subcategories of the leather tanning and finishing industry: Hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling.

(E) Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: Hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling.

(F) Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: Hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; and through-the-blue.

(G) Waste scrap leather from the leather tanning industry, the shoe manufacturing industry, and other leather product manufacturing industries.

(H) Wastewater treatment sludges from the production of TiO2 pigment using chromium-bearing ores by the chloride process.

(bb)(i) Nonwastewater residues, such as slag, resulting from high temperature metals recovery (HTMR) processing of K061, K062 or F006 waste, in units identified as rotary kilns, flame reactors, electric furnaces, plasma arc furnaces, slag reactors, rotary hearth furnace/electric furnace combinations or industrial furnaces (as defined in WAC 173-303-040 - blast furnaces, smelting, melting and refining furnaces, and other devices the department may add to the list - of the definition for "industrial furnace"), that are disposed in subtitle D units, provided that these residues meet the generic exclusion levels identified in the tables in this paragraph for all constituents, and exhibit no characteristics of dangerous waste. Testing requirements must be incorporated in a facility's waste analysis plan or a generator's self-implementing waste analysis plan; at a minimum, composite samples of residues must be collected and analyzed quarterly and/or when the process or operation generating the waste changes. Persons claiming this exclusion in an enforcement action will have the burden of proving by clear and convincing evidence that the material meets all of the exclusion requirements.

<table>
<thead>
<tr>
<th>Constituent</th>
<th>Maximum for any single composite sample-TCLP (mg/l)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Antimony</td>
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<tr>
<td>Arsenic</td>
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</table>

[ 53 ] OTS-9660.3
Maximum for any single constituent composite sample-TCLP (mg/l)

<table>
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<tr>
<th>Constituent</th>
<th>Maximum</th>
</tr>
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<tbody>
<tr>
<td>Barium</td>
<td>7.6</td>
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<tr>
<td>Beryllium</td>
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<tr>
<td>Cadmium</td>
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<tr>
<td>Chromium (total)</td>
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<td>(2) Lead</td>
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<tr>
<td>Selenium</td>
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<tr>
<td>Silver</td>
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<tr>
<td>Thallium</td>
<td>0.020</td>
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<tr>
<td>Zinc</td>
<td>70</td>
</tr>
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</table>

Generic exclusion levels for F006 nonwastewater HTMR residues

<table>
<thead>
<tr>
<th>Constituent</th>
<th>Maximum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Antimony</td>
<td>0.10</td>
</tr>
<tr>
<td>Arsenic</td>
<td>0.50</td>
</tr>
<tr>
<td>Barium</td>
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<td>Cadmium</td>
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<td>Chromium (total)</td>
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<tr>
<td>Cyanide (total)</td>
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<tr>
<td>Lead</td>
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<tr>
<td>Mercury</td>
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</tr>
<tr>
<td>Nickel</td>
<td>1.0</td>
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<tr>
<td>Selenium</td>
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<tr>
<td>Thallium</td>
<td>0.020</td>
</tr>
<tr>
<td>Zinc</td>
<td>70</td>
</tr>
</tbody>
</table>

(ii) A one-time notification and certification must be placed in the facility's files and sent to the department for K061, K062 or F006 HTMR residues that meet the generic exclusion levels for all constituents and do not exhibit any characteristics that are sent to subtitle D units. The notification and certification that is placed in the generator's or treater's files must be updated if the process or operation generating the waste changes and/or if the subtitle D unit receiving the waste changes. However, the generator or treater need only notify the department on an annual basis if such changes occur. Such notification and certification should be sent to the department by the end of the calendar year, but no later than December 31. The notification must include the following information: The name and address of the subtitle D unit receiving the waste shipments; the dangerous waste number(s) and treatability group(s) at the initial point of generation; and, the treatment standards applicable to the waste at the initial point of generation. The certification must be signed by an authorized representative and must state as follows: "I certify under penalty of law that the generic exclusion levels for all constituents have been met without impermissible dilution and that no characteristic of dangerous waste is exhibited. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment." These wastes are not excluded.
if they exhibit one or more of the dangerous waste characteristics (WAC 173-303-090) or criteria (WAC 173-303-100).

(cc)(i) Oil-bearing hazardous secondary materials (that is, sludges, by-products, or spent materials) that are generated at a petroleum refinery (NAICS code 324110) and are inserted into the petroleum refining process (NAICS code 324110 – Including, but not limited to, distillation, catalytic cracking, fractionation, or thermal cracking units (that is, cokers)) unless the material is placed on the land, or speculatively accumulated before being so recycled. Materials inserted into thermal cracking units are excluded under this paragraph: Provided that the coke product also does not exhibit a characteristic of hazardous waste. Oil-bearing hazardous secondary materials may be inserted into the same petroleum refinery where they are generated, or sent directly to another petroleum refinery, and still be excluded under this provision. Except as provided in (cc)(ii) of this subsection, oil-bearing hazardous secondary materials generated elsewhere in the petroleum industry (that is, from sources other than petroleum refineries) are not excluded under this section. Residuals generated from processing or recycling materials excluded under this paragraph, where such materials as generated would have otherwise met a listing under WAC 173-303-081 and 173-303-082, are designated as F037 listed wastes when disposed of or intended for disposal.

(ii) Recovered oil that is recycled in the same manner and with the same conditions as described in (cc)(i) of this subsection. Recovered oil is oil that has been reclaimed from secondary materials (including wastewater) generated from normal petroleum industry practices, including refining, exploration and production, bulk storage, and transportation incident thereto (NAICS codes 211111, 211112, 213111, 213112, 541360, 237120, 238910, 324110, 486110, 486910, 486210, 221210, 488210, 488999, 424710, 454311, 454312, 424720, 425120). Recovered oil does not include oil-bearing hazardous wastes listed in WAC 173-303-081 and 173-303-082; however, oil recovered from such wastes may be considered recovered oil. Recovered oil does not include used oil as defined in WAC 173-303-040.

(dd) Dangerous waste Nos. K060, K087, K141, K142, K143, K144, K145, K147, and K148, and any wastes from the coke by-products processes that are dangerous only because they exhibit the toxicity characteristic (TC) specified in WAC 173-303-090(8) when, subsequent to generation, these materials are recycled to coke ovens, to the tar recovery process as a feedstock to produce coal tar, or mixed with coal tar prior to the tar's sale or refining. This exclusion is conditioned on there being no land disposal of the wastes from the point they are generated to the point they are recycled to coke ovens or tar recovery or refining processes, or mixed with coal tar.

(ee) Biological treatment sludge from the treatment of one of the following wastes listed in WAC 173-303-9904 – organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes (Dangerous Waste No. K156), and wastewaters from the production of carbamates and carbamoyl oximes (Dangerous Waste No. K157) unless it exhibits one or more of the characteristics or criteria of dangerous waste.

(ff) Excluded scrap metal (processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal) being recycled.

(gg) Shredded circuit boards being recycled: Provided, That they are:
(i) Stored in containers sufficient to prevent a release to the environment prior to recovery; and
(ii) Free of mercury switches, mercury relays and nickel-cadmium batteries and lithium batteries.

(hh) Petrochemical recovered oil from an associated organic chemical manufacturing facility, where the oil is to be inserted into the petroleum refining process (NAICS code 324110) along with normal petroleum refinery process streams, provided:

(i) The oil is hazardous only because it exhibits the characteristic of ignitability (as defined in WAC 173-303-090(5) and/or toxicity for benzene (WAC 173-303-090(8), waste code D018); and
(ii) The oil generated by the organic chemical manufacturing facility is not placed on the land, or speculatively accumulated before being recycled into the petroleum refining process.

An "associated organic chemical manufacturing facility" is a facility where the primary NAICS code is 325110, 325120, 325188, 325192, 325193, or 325199, but where operations may also include NAICS codes 325211, 325212, 325110, 325132, 325192; and is physically colocated with a petroleum refinery; and where the petroleum refinery to which the oil being recycled is returned also provides hydrocarbon feedstocks to the organic chemical manufacturing facility. "Petrochemical recovered oil" is oil that has been reclaimed from secondary materials (that is, sludges, by-products, or spent materials, including wastewater) from normal organic chemical manufacturing operations, as well as oil recovered from organic chemical manufacturing processes.

(ii) Spent caustic solutions from petroleum refining liquid treating processes used as a feedstock to produce cresylic or naphthenic acid unless the material is placed on the land, or accumulated speculatively as defined in WAC 173-303-016(5).

(jj) Catalyst inert support media separated from one of the following wastes listed in WAC 173-303-9904 Specific Sources – Spent hydrotreating catalyst (EPA Hazardous Waste No. K171), and Spent hydro-refining catalyst (EPA Hazardous Waste No. K172). These wastes are not excluded if they exhibit one or more of the dangerous waste characteristics or criteria.

(kk) Leachate or gas condensate collected from landfills where certain solid wastes have been disposed: Provided, That:

(i) The solid wastes disposed would meet one or more of the listing descriptions for Hazardous Waste Codes K169, K170, K171, K172, K174, K175, K176, K177, K178, and K181 if these wastes had been generated after the effective date of the listing;
(ii) The solid wastes described in (kk)(i) of this subsection were disposed prior to the effective date of the listing;
(iii) The leachate or gas condensate do not exhibit any characteristic or criteria of dangerous waste nor are derived from any other listed hazardous waste;
(iv) Discharge of the leachate or gas condensate, including leachate or gas condensate transferred from the landfill to a POTW by truck, rail, or dedicated pipe, is subject to regulation under sections 307(b) or 402 of the Clean Water Act.
(v) As of February 13, 2001, leachate or gas condensate derived from K169 – K172 is no longer exempt if it is stored or managed in a surface impoundment prior to discharge. As of November 21, 2003, leachate or gas condensate derived from K176, K177, and K178 is no longer exempt if it is stored or managed in a surface impoundment prior to discharge. After February 26, 2007, leachate or gas condensate derived from K181 will no longer be exempt if it is stored or managed.
in a surface impoundment prior to discharge. There is one exception: If the surface impoundment is used to temporarily store leachate or gas condensate in response to an emergency situation (for example, shutdown of wastewater treatment system): Provided, That the impoundment has a double liner, and: Provided further, That the leachate or gas condensate is removed from the impoundment and continues to be managed in compliance with the conditions of this paragraph after the emergency ends.

(ll) Dredged material. Dredged material as defined in 40 C.F.R. 232.2 that is subject to:

(i) The requirements of a permit that has been issued by the U.S. Army Corps of Engineers or an approved state under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344); 
(ii) The requirements of a permit that has been issued by the U.S. Army Corps of Engineers under section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1413); or 
(iii) In the case of a U.S. Army Corps of Engineers civil works project, the administrative equivalent of the permits referred to in (ll)(i) and (ii) of this subsection, as provided for in U.S. Army Corps of Engineers regulations, including, for example, 33 C.F.R. 336.1, 336.2 and 337.3.

(mm) Condensates derived from the overhead gases from kraft mill steam strippers that are used to comply with 40 C.F.R. 63.446(e). The exemption applies only to combustion at the mill generating the condensates.

(nn)(i) Controlled substances, legend drugs, and over-the-counter drugs that are state-only dangerous wastes.

(A) Controlled substances as defined and regulated by chapter 69.50 RCW (Schedule I through V);
(B) Legend drugs as defined and regulated by chapter 69.41 RCW; and 
(C) Over-the-counter drugs as defined and regulated by chapter 69.60 RCW.

(ii) Controlled substances, legend drugs, and over-the-counter drugs that are held in the custody of law enforcement agencies or possessed by any licensee as defined and regulated by chapter 69.50 RCW or Title 18 RCW and authorized to possess drugs within the state of Washington are excluded, provided the drugs are disposed of by incineration in a controlled combustion unit with a heat input rate greater than 250 million British thermal units/hour, a combustion zone temperature greater than 1500 degrees Fahrenheit, or a facility permitted to incinerate municipal solid waste.

(iii) For the purposes of this exclusion the term "drugs" means:

(A) Articles recognized in the official United States pharmacopoeia or the official homeopathic pharmacopoeia of the United States; 
(B) Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or 
(C) Substances (other than food) intended to affect the structure or any function of the body of man or other animals, as defined in RCW 18.64.011(3). (Note: RCW 18.64.011 (3)(d) is intentionally not included in the definition of drugs for this exclusion.)

(iv) When possessed by any licensee the term drugs used in this exclusion means finished drug products.

(oo) Cathode ray tubes (CRTs) and glass removed from CRTs:

(i) Prior to processing: These materials are not solid wastes if they are destined for recycling and if they meet the following requirements:
(A) Storage. CRTs must be either:
   (I) Stored in a building with a roof, floor, and walls; or
   (II) Placed in a container (that is, a package or a vehicle) that is constructed, filled, and closed to minimize releases to the environment of CRT glass (including fine solid materials).

(B) Labeling. Each container in which the CRT is contained must be labeled or marked clearly with one of the following phrases: "Used cathode ray tube(s) - contains leaded glass" or "leaded glass from televisions or computers." It must also be labeled: "Do not mix with other glass materials."

(C) Transportation. CRTs must be transported in a container meeting the requirements of (oo)(i)(A)(II) and (B) of this subsection.

(D) Speculative accumulation and use constituting disposal. CRTs are subject to the limitations on speculative accumulation as defined in WAC 173-303-016 (5)(d). If they are used in a manner constituting disposal, they must comply with the applicable requirements of WAC 173-303-505 instead of the requirements of this section.

(E) Exports. In addition to the applicable conditions specified in (oo)(i)(A) through (D) of this subsection, exporters of CRTs must comply with the following requirements:
   (I) Notify EPA of an intended export before the CRTs are scheduled to leave the United States. A complete notification should be submitted sixty days before the initial shipment is intended to be shipped off-site. This notification may cover export activities extending over a twelve-month or lesser period. The notification must be in writing, signed by the exporter, and include the following information:
      • Name, mailing address, telephone number and EPA/state ID number (if applicable) of the exporter of the CRTs.
      • The estimated frequency or rate at which the CRTs are to be exported and the period of time over which they are to be exported.
      • The estimated total quantity of CRTs specified in kilograms.
      • All points of entry to and departure from each foreign country through which the CRTs will pass.
      • A description of the means by which each shipment of the CRTs will be transported (for example, mode of transportation vehicle (air, highway, rail, water, etc.), type(s) of container (drums, boxes, tanks, etc.).)
      • The name and address of the recycler and any alternate recycler.
      • A description of the manner in which the CRTs will be recycled in the foreign country that will be receiving the CRTs.
      • The name of any transit country through which the CRTs will be sent and a description of the approximate length of time the CRTs will remain in such country and the nature of their handling while there.
   (II) Notifications submitted by mail should be sent to the following mailing address: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division, (Mail Code 2254A), Environmental Protection Agency, 1200 Pennsylvania Ave., N.W., Washington, D.C. 20460. Hand-delivered notifications should be sent to: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division, (Mail Code 2254A), Environmental Protection Agency, Ariel Rios Bldg., Room 6144, 1200 Pennsylvania Ave., N.W., Washington, D.C. In both cases, the following must be prominently displayed on the front of the envelope: "Attention: Notification of intent to export CRTs."
(III) Upon request by EPA, the exporter must furnish to EPA any additional information which a receiving country requests in order to respond to a notification.

(IV) EPA will provide a complete notification to the receiving country and any transit countries. A notification is complete when EPA receives a notification which EPA determines satisfies the requirements of (oo)(i)(E)(I) of this subsection. Where a claim of confidentiality is asserted with respect to any notification information required by (oo)(i)(E)(I) of this subsection, EPA may find the notification not complete until any such claim is resolved in accordance with 40 C.F.R. 260.2.

(V) The export of CRTs is prohibited unless the receiving country consents to the intended export. When the receiving country consents in writing to the receipt of the CRTs, EPA will forward an "Acknowledgment of Consent" to export CRTs to the exporter. Where the receiving country objects to receipt of the CRTs or withdraws a prior consent, EPA will notify the exporter in writing. EPA will also notify the exporter of any responses from transit countries.

(VI) When the conditions specified on the original notification change, the exporter must provide EPA with a written renotification of the change, except for changes to the telephone number in (oo)(i)(E)(I)(first bullet) of this subsection and decreases in the quantity indicated pursuant to (oo)(i)(E)(I)(third bullet) of this subsection. The shipment cannot take place until consent of the receiving country to the changes has been obtained (except for changes to information about points of entry and departure and transit countries pursuant to (oo)(i)(E)(I)(fourth bullet) and (i)(E)(I)(eighth bullet) of this section) and the exporter of CRTs receives from EPA a copy of the "Acknowledgment of Consent" to export CRTs reflecting the receiving country's consent to the changes.

(VII) A copy of the "Acknowledgment of Consent" to export CRTs must accompany the shipment of CRTs. The shipment must conform to the terms of the Acknowledgment.

(VIII) If a shipment of CRTs cannot be delivered for any reason to the recycler or the alternate recycler, the exporter of CRTs must renotify EPA of a change in the conditions of the original notification to allow shipment to a new recycler in accordance with (oo)(i)(E)(VI) of this subsection and obtain another "Acknowledgment of Consent" to export CRTs.

(IX) Exporters must keep copies of notifications and "Acknowledgments of Consent" to export CRTs for a period of five years following receipt of the "Acknowledgment.") requirements in 40 C.F.R. 261.39(a)(5)(i) through (xi), which are incorporated by reference into this chapter 173-303 WAC.

(ii) Requirements for used CRT processing: CRTs undergoing CRT processing as defined in WAC 173-303-040 are not solid wastes if they meet the following requirements:

(A) Storage. CRTs undergoing processing are subject to the requirement of (oo)(i)(D) of this subsection.

(B) Processing.

(I) All activities specified in the second and third bullets of the definition of "CRT processing" in WAC 173-303-040 must be performed within a building with a roof, floor, and walls; and

(II) No activities may be performed that use temperatures high enough to volatilize lead from CRTs.

(iii) Processed CRT glass sent to CRT glass making or lead smelting: Glass from CRTs that is destined for recycling at a CRT glass
manufacturer or a lead smelter after processing is not a solid waste unless it is speculatively accumulated as defined in WAC 173-303-016 (5)(d).

(iv) Use constituting disposal: Glass from used CRTs that is used in a manner constituting disposal must comply with the requirements of WAC 173-303-505.

(v) Notification and recordkeeping for cathode ray tubes (CRTs) exported for reuse.

(((A) Persons who export CRTs for reuse must send a one-time notification to the U.S. EPA Regional Administrator. The notification must include a statement that the notifier plans to export CRTs for reuse, the notifier's name, address, and EPA/state ID number (if applicable) and the name and phone number of a contact person.

(B) Persons who export CRTs for reuse must keep copies of normal business records, such as contracts, demonstrating that each shipment of exported CRTs will be reused. This documentation must be retained for a period of at least five years from the date the CRTs were exported.)) Persons who export CRTs for reuse must comply with the requirements in 40 C.F.R. 261.41, which are incorporated by reference into this chapter 173-303 WAC.

(pp) Zinc fertilizers made from hazardous wastes provided that:

(i) The fertilizers meet the following contaminant limits:

(A) For metal contaminants:

<table>
<thead>
<tr>
<th>Constituent in Fertilizer, per Unit (1%) of Zinc (ppm)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arsenic</td>
</tr>
<tr>
<td>Cadmium</td>
</tr>
<tr>
<td>Chromium</td>
</tr>
<tr>
<td>Lead</td>
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<tr>
<td>Mercury</td>
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</tbody>
</table>

(B) For dioxin contaminants the fertilizer must contain no more than eight parts per trillion of dioxin, measured as toxic equivalent (TEQ).

(ii) The manufacturer performs sampling and analysis of the fertilizer product to determine compliance with the contaminant limits for metals no less than every six months, and for dioxins no less than every twelve months. Testing must also be performed whenever changes occur to manufacturing processes or ingredients that could significantly affect the amounts of contaminants in the fertilizer product. The manufacturer may use any reliable analytical method to demonstrate that no constituent of concern is present in the product at concentrations above the applicable limits. It is the responsibility of the manufacturer to ensure that the sampling and analysis are unbiased, precise, and representative of the product(s) introduced into commerce.

(iii) The manufacturer maintains for no less than three years records of all sampling and analyses performed for purposes of determining compliance with the requirements of (pp)(ii) of this subsection. Such records must at a minimum include:

(A) The dates and times product samples were taken, and the dates the samples were analyzed;

(B) The names and qualifications of the person(s) taking the samples;
(C) A description of the methods and equipment used to take the samples;
(D) The name and address of the laboratory facility at which analyses of the samples were performed;
(E) A description of the analytical methods used, including any cleanup and sample preparation methods; and
(F) All laboratory analytical results used to determine compliance with the contaminant limits specified in this subsection (3)(pp).

(qq) Debris. Provided the debris does not exhibit a characteristic identified in WAC 173-303-090, the following materials are not subject to regulation under this chapter:

(i) Hazardous debris that has been treated using one of the required extraction or destruction technologies specified in Table 1 of 40 C.F.R. section 268.45, which is incorporated by reference at WAC 173-303-140 (2)(a); persons claiming this exclusion in an enforcement action will have the burden of proving by clear and convincing evidence that the material meets all of the exclusion requirements; or

(ii) Debris that the department, considering the extent of contamination, has determined is no longer contaminated with hazardous waste.

(rr) Solvent-contaminated wipes that are sent for cleaning and reuse are not solid wastes from the point of generation, provided that:

(i) The solvent-contaminated wipes, when accumulated, stored, and transported, are contained in nonleaking, closed containers that are labeled "Excluded Solvent-Contaminated Wipes." The containers must be able to contain free liquids, should free liquids occur. During accumulation, a container is considered closed when there is complete contact between the fitted lid and the rim, except when it is necessary to add or remove solvent-contaminated wipes. When the container is full, or when the solvent-contaminated wipes are no longer being accumulated, or when the container is being transported, the container must be sealed with all lids properly and securely affixed to the container and all openings tightly bound or closed sufficiently to prevent leaks and emissions;

(ii) The solvent-contaminated wipes may be accumulated by the generator for up to one hundred eighty days from the accumulation start date for each container prior to being sent for cleaning;

(iii) At the point of being sent for cleaning on site or at the point of being transported off site for cleaning, the solvent-contaminated wipes must contain no free liquids as defined in WAC 173-303-040;

(iv) Free liquids removed from the solvent-contaminated wipes or from the container holding the wipes must be managed according to the applicable regulations found in this chapter if the solvent designates as a dangerous waste;

(v) Generators must maintain at their site the following documentation:

(A) Name and address of the laundry or dry cleaner that is receiving the solvent-contaminated wipes;

(B) Documents proving that the one hundred eighty-day accumulation time limit in (rr)(ii) of this subsection is being met;

(C) Description of the process the generator is using to ensure the solvent-contaminated wipes contain no free liquids at the point of being laundered or dry cleaned on site or at the point of being transported off site for laundering or dry cleaning;
(vi) The solvent-contaminated wipes are sent to a laundry or dry cleaner whose discharge, if any, is regulated under sections 301 and 402 or section 307 of the Clean Water Act.

(ss) Solvent-contaminated wipes, except for wipes that are dangerous waste due to the presence of trichloroethylene, that are sent for disposal are not dangerous wastes from the point of generation, provided that:

(i) The solvent-contaminated wipes, when accumulated, stored, and transported, are contained in nonleaking, closed containers that are labeled "Excluded Solvent-Contaminated Wipes." The containers must be able to contain free liquids, should free liquids occur. During accumulation, a container is considered closed when there is complete contact between the fitted lid and the rim, except when it is necessary to add or remove solvent-contaminated wipes. When the container is full, or when the solvent-contaminated wipes are no longer being accumulated, or when the container is being transported, the container must be sealed with all lids properly and securely affixed to the container and all openings tightly bound or closed sufficiently to prevent leaks and emissions;

(ii) The solvent-contaminated wipes may be accumulated by the generator for up to one hundred eighty days from the start date of accumulation for each container prior to being sent for disposal;

(iii) At the point of being transported for disposal, the solvent-contaminated wipes must contain no free liquids as defined in WAC 173-303-040;

(iv) Free liquids removed from the solvent-contaminated wipes or from the container holding the wipes must be managed according to the applicable regulations found in this chapter if the solvent designates as a dangerous waste;

(v) Generators must maintain at their site the following documentation:

(A) Name and address of the permitted treatment, storage, and disposal facility that is receiving the solvent-contaminated wipes;

(B) Documentation that the one hundred eighty-day accumulation time limit in (ss)(ii) of this subsection is being met;

(C) Description of the process the generator is using to ensure solvent-contaminated wipes contain no free liquids at the point of being transported for disposal;

(vi) The solvent-contaminated wipes are sent for disposal:

(A) To a dangerous waste landfill regulated under WAC 173-303-280 through 173-303-400; or

(B) To a dangerous waste combustor, boiler, or industrial furnace regulated under 40 C.F.R. Parts 264, 265, or 266 Subpart H.

AMENDATORY SECTION (Amending WSR 09-14-105, filed 6/30/09, effective 7/31/09)
(2) Quantity exclusion limit. A person whose waste is listed in WAC 173-303-9904 (including residues from the management of such wastes) is a dangerous waste generator (and may not be considered a small quantity generator as provided in WAC 173-303-070(8)) if the amount of (his) their waste exceeds the following quantity exclusion limits:

(a) 2.2 lbs. (1 kg) per month or per batch for wastes listed with the dangerous waste numbers F020, F021, F022, F023, F026, or F027. These wastes are designated DW and identified as acute hazardous wastes;

(b) 220 lbs. (100 kg) per month or per batch of any residue or contaminated soil, (waste) water, or other debris resulting from the cleanup of a spill, into or on any land or water of a waste listed in (a) of this subsection, or of an acute hazardous waste listed in WAC 173-303-9904 under specific sources ("K" wastes). Note: Acute hazardous K listed wastes are followed by an "H." These wastes are designated DW and identified as acute hazardous wastes; or

(c) 220 lbs. (100 kg) per month or per batch for all other wastes.

(3) Care should be taken in the proper designation of these wastes and of mixtures of these wastes and solid wastes. A mixture of a solid waste with a waste that would be designated as a dangerous waste source under this section must be designated as a dangerous waste source unless it has been excluded under WAC 173-303-070 (2)(c). The mixture has the same designation (DW), and the same dangerous waste number as the dangerous waste source which was mixed with the solid waste.


AMENDATORY SECTION (Amending WSR 15-01-123, filed 12/18/14, effective 1/18/15)

WAC 173-303-110 Sampling, testing methods, and (analytes) analyses. (1) Purpose. This section sets forth the testing methods to be used to comply with the requirements of this chapter. Quality control procedures specified by the testing method or an approved equivalent method must be followed for the analytical result to be considered valid for designation. All methods and publications listed in this section are incorporated by reference.

(2) Representative samples.

(a) The methods and equipment used for obtaining representative samples of a waste will vary with the type and form of the waste. The department will consider samples collected using the sampling methods below or the most recent version of such methods for wastes with properties similar to the indicated materials, to be representative samples of the wastes:

(i) Crushed or powdered material - ASTM Standard D346-04e1;
(ii) Extremely viscous liquid - ASTM Standard D140-01 (2007);
(iii) Fly ash-like material - ASTM Standard D2234/D2234M-03e1;
(iv) Soil-like material - ASTM Standard D1452-80 (2000);
(v) Soil or rock-like material - ASTM Standard D420-98 (2003);
(vi) Containerized liquid wastes - "COLIWASA" described in SW-846, as incorporated by reference at WAC 173-303-110 (3)(a), or the
equivalent representative sampling method described in ASTM D5743-97 (2003). Per this method, the selection of an appropriate device must be best suited for the characteristics of the waste being sampled; and

(vii) Liquid waste in pits, ponds, lagoons, and similar reservoirs - "Pond Sampler" described in SW-846, as incorporated by reference at WAC 173-303-110 (3)(a).

(b) Copies of these representative sampling methods are available from the department except for the ASTM standards which can be obtained by writing to:

ASTM
100 Barr Harbor Drive
West Conshohocken, PA 19428-2959

(3) Test procedures. Copies of the test procedures listed in this subsection can be obtained by writing to the appropriate address below:

For copies of Department of Ecology test methods:

Attn: Test Procedures
Hazardous Waste Section
Department of Ecology
P.O. Box 47600
Olympia, Washington 98504-7600

For copies of SW-846, including updates, and 40 C.F.R. Part 261:

Superintendent of Documents
U.S. Government Printing Office
Washington, D.C. 20402
202-512-1800

For copies of ASTM methods:

ASTM
100 Barr Harbor Drive
West Conshohocken, PA 19428-2959

For copies of APTI methods:

APTI
National Technical Information Service
5285 Port Royal Road
Springfield, VA 22161

The document titles and included test procedures are as follows:

(b) Biological Testing Methods for the Designation of Dangerous Waste, Department of Ecology Publication #80-12, the latest revision, describing procedures for:
(i) Static acute fish toxicity test; and
(ii) Acute oral rat toxicity test.

(c) Chemical Testing Methods for Designating Dangerous Waste, Department of Ecology Publication #97-407, revised December 2014 describing methods for testing:
(i) Ignitability;
(ii) Corrosivity;
(iii) Reactivity;
(iv) Toxicity characteristic leaching procedure;
(v) Halogenated organic compounds; and
(vi) Polycyclic aromatic hydrocarbons.
(Reserved);
(e) (i) The determination of Polychlorinated Biphenyls in Transformer Fluids and Waste Oils, EPA-600/4-81-045; and
(f) Appropriate analytical procedures to determine whether a sample contains a given toxic constituent are specified in Chapter Two, "Choosing the Correct Procedure" found in Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, EPA Publication SW-846((—)).
(g) The following publications for air emission standards (in addition to (a) of this subsection): (—)
(ii) ASTM Standard Test Method for Heat of Combustion of Hydrocarbon Fuels by Bomb Calorimeter (High-Precision Method), ASTM Standard D4809-06.
(h) The following publications:
(i) "NFPA 30 Flammable and Combustible Liquids Code" (2012), available from the National Fire Protection Association, NFPA Headquarters, 1 Batterymarch Park, Quincy, MA 02169-7471.
(iii) "ASTM Standard Test Methods for Preparing Refuse-Derived Fuel (RDF) Samples for Analyses of Metals," ASTM Standard E926-94,
(iv) Method 1664, Revision A, n-Hexane Extractable Material (HEM; Oil and Grease) and Silica Gel Treated n-Hexane Extractable Material (SGT-HEM; Nonpolar Material) by Extraction and Gravimetry. Available from NTIS, PB99-121949, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161.  

(4) Substantial changes to the testing methods described above will be made only after the department has provided adequate opportunity for public review and comment on the proposed changes. The department may, at its discretion, schedule a public hearing on the proposed changes.

(5) Equivalent testing methods. Any person may request department approval for the use of an equivalent testing method by submitting a petition, prepared in accordance with WAC 173-303-910(2), to the department.

(6) Reporting analytical results. Ecology requires that all test methods report their analytical results for solid and soil samples on a dry weight basis. Reporting on a dry weight basis compensates for variability in water content and provides a consistent procedure for all analytical results provided to ecology for designation purposes.

(7) "Ground-Water Monitoring List" Appendix IX to 40 C.F.R. Part 264 is replaced with the version in Appendix 5 of Chemical Testing Methods for Designating Dangerous Waste, Department of Ecology Publication #97-407, revised December 2014. The Appendix "Ground-Water Monitoring List" in Chemical Testing Methods includes the columns "Suggested methods" and "PQL."

AMENDATORY SECTION (Amending WSR 15-01-123, filed 12/18/14, effective 1/18/15)

WAC 173-303-120 Recycled, reclaimed, and recovered wastes. (1) This section describes the requirements for persons who recycle materials that are solid wastes and dangerous. Except as provided in subsections (2) and (3) of this section, dangerous wastes that are recycled are subject to the requirements for generators, transporters, and storage facilities of subsection (4) of this section. Dangerous wastes that are recycled will be known as "recyclable materials."

(2)(a) The following recyclable materials are solid wastes and sometimes are dangerous wastes. However, they are subject only to the requirements of (b) of this subsection, WAC 173-303-050, 173-303-145 and 173-303-960:

(i)(i) Industrial ethyl alcohol that is reclaimed ((4)) except that((, unless provided otherwise in an international agreement as specified in 40 C.F.R. 262.58:])(4) exports and imports of such recyc-
ble materials must comply with the requirements of 40 C.F.R. Part 262, Subpart H. See export requirements at 40 C.F.R. 261.6 (a)(3)(i)(A) and (B) that are incorporated by reference at WAC 173-303-230(1)(f);
(ii) ((Reserved)) (Reserved);
(iii) (Reserved);
(iv) Scrap metal that is not excluded under WAC 173-303-071 (3)(ff);
(v) Fuels produced from the refining of oil-bearing dangerous wastes along with normal process streams at a petroleum refining facility if such wastes result from normal petroleum refining, production, and transportation practices (this exemption does not apply to fuels produced from oil recovered from oil-bearing dangerous wastes where such recovered oil is already excluded under WAC 173-303-071 (3)(cc));
(vi) ((Reserved)) (Reserved);
(vii) Coke and coal tar from the iron and steel industry that contains dangerous waste from the iron and steel production process;
(viii)(A) Dangerous waste fuel produced from oil-bearing dangerous wastes from petroleum refining, production, or transportation practices, or produced from oil reclaimed from such dangerous wastes, where such dangerous wastes are reintroduced into a process that does not use distillation or does not produce products from crude oil so long as the resulting fuel meets the used oil specification under 40 C.F.R. 279.11 (which is incorporated by reference at WAC 173-303-515(4)) and so long as no other dangerous wastes are used to produce the dangerous waste fuel;
(B) Dangerous waste fuel produced from oil-bearing dangerous waste from petroleum refining production, and transportation practices, where such dangerous wastes are reintroduced into a refining process after a point at which contaminants are removed, so long as the fuel meets the used oil fuel specification under 40 C.F.R. 279.11 (which is incorporated by reference at WAC 173-303-515(4)); and
(C) Oil reclaimed from oil-bearing dangerous wastes from petroleum refining, production, and transportation practices, which reclaimed oil is burned as a fuel without reintroduction to a refining process, so long as the reclaimed oil meets the used oil fuel specification under 40 C.F.R. 279.11 (which is incorporated by reference at WAC 173-303-515(4)).
(b) Any recyclable material listed in (a) of this subsection will be subject to the applicable requirements listed in subsection (4) of this section if the department determines, on a case-by-case basis, that:
(i) It is being accumulated, used, reused, or handled in a manner that poses a threat to public health or the environment; or
(ii) Due to the dangerous constituent(s) in it, any use or reuse would pose a threat to public health or the environment. Such recyclable material will be listed in WAC 173-303-016(6).
(3) The recyclable materials listed in (a) through (h) of this subsection are not subject to the requirements of this section but are subject to the requirements of WAC 173-303-070 through 173-303-110, 173-303-160, 173-303-500 through 173-303-525, and all applicable provisions of WAC 173-303-800 through 173-303-840. The recyclable materials listed in (b), (d), (f) and (g) of this subsection are also subject to WAC 173-303-140.
In addition to these requirements, owners and operators of facilities that receive recyclable materials from off-site are subject to WAC 173-303-610 (2) and (12) and to WAC 173-303-620 (1)(e).
(a) Recycling requirements for state-only dangerous wastes (see WAC 173-303-500);
(b) Recyclable materials used in a manner constituting disposal (see WAC 173-303-505);
(c) Spent CFC or HCFC refrigerants that are recycled on-site or sent to be reclaimed off-site (see WAC 173-303-506);
(d) Dangerous wastes burned (as defined in WAC 173-303-510 (1)(a)) in boilers and industrial furnaces that are not regulated under Subpart O of 40 C.F.R. Part 265 or WAC 173-303-670 (see WAC 173-303-510);
(e) [Reserved];
(f) Spent lead-acid batteries that are being reclaimed (see WAC 173-303-520);
(g) Recyclable materials from which precious metals are reclaimed (see WAC 173-303-525); and
(h) Spent antifreeze that is recycled on-site or sent to be recycled off-site (see WAC 173-303-522).

(4) Those recycling processes not specifically discussed in subsections (2) and (3) of this section are generally subject to regulation only up to and including storage prior to recycling. For the purpose of this section, the department may determine on a case-by-case basis that recyclable materials received from off-site are not stored if they are moved into an active recycling process within a period of time not to exceed seventy-two hours after being received. In making such a determination, the department will consider factors including, but not limited to, the types and volumes of wastes being recycled, operational factors of the recycling process, and the compliance history of the owner or operator. An active recycling process refers to a dynamic recycling operation that occurs within a recycling unit such as a distillation or centrifuge unit. The phrase does not refer to passive storage-like activities that occur, for example, when tanks or containers are used for phase separation or for settling impurities. Passive storage-like activities are not eligible for the recycling exemption under this subsection.

The recycling process itself is generally exempt from permitting unless the department determines, on a case-by-case basis, that the recycling process poses a threat to public health or the environment.

Unless specified otherwise in subsections (2) and (3) of this section:
(a) Generators of recyclable materials are subject to all applicable requirements of this chapter including, but not limited to, WAC 173-303-170 through 173-303-230;
(b) Transporters of recyclable materials are subject to all applicable requirements of this chapter including, but not limited to, WAC 173-303-240 through 173-303-270;
(c) Owners or operators of facilities that receive recyclable materials from off-site and recycle these recyclable materials without storing them before they are recycled are subject to the following requirements:
   (i) WAC 173-303-060,
   (ii) WAC 173-303-120 (4)(e),
   (iii) WAC 173-303-283 through 173-303-290,
   (iv) WAC 173-303-310 through 173-303-395,
   (v) WAC 173-303-610 (2) and (12),
   (vi) WAC 173-303-620 (1)(e),
   (vii) WAC 173-303-630 (2) through (10), and
(viii) WAC 173-303-640 (2) through (10) except that requirements
to post-closure planning or care in WAC 173-303-640(8) will not apply
to closure of recycling units. In lieu of the dates in WAC 173-303-640
(2) and (4), for existing tank systems regulated under this subsec-
tion, owners and operators must complete the assessment of the tank
system's integrity by June 1, 1992, and must meet the secondary con-
tainment requirements of WAC 173-303-640(4) by January 12, 1993;

(ix) The owner or operator must obtain data, by screening-type
analysis if necessary, confirming the designation of each waste
stream, such that each dangerous waste received can be effectively re-
cycled without jeopardizing human health or the environment. The owner
or operator must verify the waste designation periodically, so that it
is accurate and current, but at least once every six months or on a
batch basis if shipments of a specific waste stream are less frequent.
Copies of all analyses and data must be retained for at least five
years and made available to the department upon request.

(d) Owners and operators of facilities that store recyclable ma-
terials before they are recycled are subject to the following require-
ments including, but not limited to:

(i) For all recyclers, the applicable provisions of:
(A) WAC 173-303-280 through 173-303-395,
(B) WAC 173-303-800 through 173-303-840,
(C) WAC 173-303-140 (2)(a),
(D) WAC 173-303-120 (4)(e);

(ii) For recyclers with interim status permits, the applicable
storage provisions of WAC 173-303-400 including Subparts F through L
of 40 C.F.R. Part 265;

(iii) For recyclers with final facility permits, the applicable
storage provisions of:
(A) WAC 173-303-600 through 173-303-650, and
(B) WAC 173-303-660.

(e) Owners and operators of facilities subject to dangerous waste
permitting requirements with dangerous waste management units that re-
cycle hazardous wastes are subject to the requirements of WAC
173-303-690, 173-303-691 (Air emission standards for process vents and
equipment leaks), and WAC 173-303-692 (Air emission standards for
tanks, surface impoundments, and containers) for final status facili-
ties, and 40 C.F.R. Part 265 Subparts AA, BB, and CC, incorporated by
reference at WAC 173-303-400(3) for interim status facilities.

(5) Used oil that is recycled and is also a dangerous waste sole-
ly because it exhibits a dangerous waste characteristic or criteria is
not subject to ((the requirements of)) this chapter except for appli-
cable requirements of WAC 173-303-515 and the requirements of 40
C.F.R. Part 279, which is incorporated by reference at WAC
173-303-515. Used oil that is recycled includes any used oil that is
reused, following its original use, for any purpose (including the
purpose for which the oil was originally used). Such term includes,
but is not limited to, oil that is re-refined, reclaimed, burned for
energy recovery, or reprocessed.

(6) Hazardous waste that is exported to or imported from ((desig-
nated member countries of the Organization for Economic Cooperation
and Development (OECD) (as defined in 40 C.F.R. 262.58 (a)(1)) for
purpose of recovery is subject to the requirements of 40 C.F.R. Part
262, subpart H, if it is subject to either the manifesting require-
ments at WAC 173-303-180 or to the universal waste management stand-
ards of WAC 173-303-573)) any country for recovery is subject to the
requirements of 40 C.F.R. Part 262, Subpart H.
WAC 173-303-140 Land disposal restrictions. (1) Purpose.
(a) The purpose of this section is to encourage the best management practices for dangerous wastes according to the priorities of RCW 70.105.150 which are, in order of priority:
   (i) Reduction;
   (ii) Recycling;
   (iii) Physical, chemical, and biological treatment;
   (iv) Incineration;
   (v) Stabilization and solidification; and
   (vi) Landfill.
(b) This section identifies dangerous wastes that are restricted from land disposal, describes requirements for restricted wastes, and defines the circumstances under which a prohibited waste may continue to be land disposed.
(c) For the purposes of this section, the term "landfill," as stated in the priorities of RCW 70.105.150, will be the same as the term "land disposal." Land disposal will be used in this section to identify the lowest waste management priority.

(2) Applicability.
The land disposal restrictions of this section apply to any person who owns or operates a dangerous waste treatment, storage, or disposal facility in Washington state and to any person who generates or transports dangerous waste.
(a) Land disposal restrictions for wastes designated in accordance with WAC 173-303-070 (3)(a)(i), (ii), and (iii) are the restrictions set forth by the Environmental Protection Agency in 40 C.F.R. Part 268 which are incorporated by reference into this regulation, as modified in (c) through (f) of this subsection, and the restrictions set forth in subsections (3) through (7) of this section. The words "regional administrator" (in 40 C.F.R.) will mean the "department," except for 40 C.F.R. Parts 268.5 and 268.6; 268 Subpart B; 268.42(b) and 268.44 (a) through (g). The authority for implementing these excluded C.F.R. sections remains with the U.S. Environmental Protection Agency. The word "EPA" (in 40 C.F.R.) means "Ecology" at 40 C.F.R. 268.44 (m) and 268.45 (a). The exemption and exception provisions of subsections (3) through (7) of this section are not applicable to the federal land disposal restrictions.

Where the federal regulations that have been incorporated by reference refer to 40 C.F.R. 260.11, data provided under this section must instead meet the requirements of WAC 173-303-110.
(b) Land disposal restrictions for state-only dangerous waste are the restrictions set forth in subsections (3) through (7) of this section.
(c) Where 40 C.F.R. 268.7 (a)(1) is incorporated by reference, delete the sentence "Alternatively, the generator must send the waste to a RCRA-permitted dangerous waste treatment facility, where the waste treatment facility must comply with the requirements of 264.13 of this chapter and 268.7(b) of this section."
(d) Where 40 C.F.R. 268.7 (a)(2) is incorporated by reference:
   (i) Delete the words "or if the generator chooses not to make the determination of whether (his) their waste must be treated" from the first sentence; and
(ii) Delete the sentence "(Alternatively, if the generator chooses not to make the determination of whether the waste must be treated, the notification must include the EPA Hazardous Waste Numbers and Manifest Number of the first shipment and must state 'This hazardous waste may or may not be subject to the LDR treatment standards. The treatment facility must make the determination.')"

(e) Where 40 C.F.R. 268.7 (b)(6) is incorporated by reference, replace the words "for the initial shipment of waste, prepare a one-time certification described in paragraph (b)(4) of this section, and a one-time notice which includes the information in paragraph (b)(3) of this section (except the manifest number)" with the words "submit a certification described in paragraph (b)(4) of this section, and a notice which includes the information listed in paragraph (b)(3) of this section (except for the manifest number) to the department for each shipment".

(f) Where 40 C.F.R. 268.9(d) is incorporated by reference, replace paragraph (d) with the following: Wastes that exhibit a characteristic are also subject to Section 268.7 requirements, except that once the waste is no longer dangerous, a one-time notification and certification must be placed in the generators or treaters files and sent to the department. The notification and certification that is placed in the generators or treaters files must be updated if the process or operation generating the waste changes and/or if the subtitle D facility receiving the waste changes. However, the generator or treater need only notify the department on an annual basis if such changes occur. Such notification and certification should be sent to the department by the end of the calendar year, but no later than December 31.

(i) The notification must include the following information:

(A) Name and address of the RCRA Subtitle D facility receiving the waste shipment; and

(B) A description of the waste as initially generated, including the applicable dangerous waste code(s), treatability group(s), and underlying hazardous constituents (as defined in Sec. 268.2(i)), unless the waste will be treated and monitored for all underlying hazardous constituents. If all underlying hazardous constituents will be treated and monitored, there is no requirement to list any of the underlying hazardous constituents on the notice.

(ii) The certification must be signed by an authorized representative and must state the language found in Section 268.7 (b)(4).

If treatment removes the characteristic but does not meet standards applicable to underlying hazardous constituents, then the certification found in Sec. 268.7 (b)(4)(iv) applies.

(3) Definitions.

When used in this section the following terms have the meaning provided in this subsection. All other terms have the meanings given under WAC 173-303-040.

(a) "Dangerous waste constituents" means those constituents listed in WAC 173-303-9905 and any other constituents which have caused a waste to be a dangerous waste under this chapter.

(b) "Land disposal" means placement in a facility or on the land with the intent of leaving the dangerous waste at closure, and includes, but is not limited to, placement for disposal purposes in a: Landfill; surface impoundment; waste pile; injection well; land treatment facility; salt dome or salt bed formation; underground cave or mine; concrete vault or bunker.
(c) "Organic/carbonaceous waste" means a dangerous waste that contains combined concentrations of greater than ten percent organic/carbonaceous constituents in the waste; organic/carbonaceous constituents are those substances that contain carbon-hydrogen, carbon-halogen, or carbon-carbon chemical bonding.

(d) "Solid acid waste" means a dangerous waste that exhibits the characteristic of low pH under the corrosivity test of WAC 173-303-090 (6)(a)(iii).

(e) "Stabilization" and "solidification" mean a technique that limits the solubility and mobility of dangerous waste constituents. Solidification immobilizes a waste through physical means and stabilization immobilizes the waste by bonding or chemically reacting with the stabilizing material.

4 Land disposal restrictions and prohibitions. The land disposal requirements of this subsection apply to land disposal in Washington state.

(a) Disposal of extremely hazardous waste (EHW). No person may land dispose of EHW, except as provided in subsection (5) of this section, at any land disposal facility in the state. No person may land dispose of EHW at the facility established under RCW 70.105.050, except as provided by subsections (5), (6), and (7) of this section. A person is encouraged to reclaim, recycle, recover, treat, detoxify, neutralize, or otherwise process EHW to remove or reduce its harmful properties or characteristics, provided that such processing is performed in accordance with the requirements of this chapter.

(b) Disposal of liquid waste. Special requirements for bulk and containerized liquids.

(i) The placement of bulk or noncontainerized liquid dangerous waste or dangerous waste containing free liquids (whether or not sorbents have been added) in any landfill is prohibited.

(ii) Containers holding free liquids must not be placed in a landfill unless:

(A) All free-standing liquid:

(I) Has been removed by decanting, or other methods; or

(II) Has been mixed with sorbent or stabilized (solidified) so that free-standing liquid is no longer observed; or

(III) Has been otherwise eliminated; or

(B) The container is very small, such as an ampule; or

(C) The container is designed to hold free liquids for use other than storage, such as a battery or capacitor; or

(D) The container is a labpack and is disposed of in accordance with WAC 173-303-161 and this chapter.

(iii) To demonstrate the absence or presence of free liquids in either a containerized or a bulk waste, the following tests must be used: Method 9095 (Paint Filter Liquids Test) as described in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods" EPA Publication SW-846 as incorporated by reference in WAC 173-303-110 (3)(a).

(iv) Sorbents used to treat free liquids to be disposed of in landfills must be nonbiodegradable. Nonbiodegradable sorbents are: Materials listed or described in (b)(iv)(A) of this subsection; materials that pass one of the tests in (b)(iv)(B) of this subsection; or materials that are determined by the department to be nonbiodegradable through WAC 173-303-910.

(A) Nonbiodegradable sorbents.

(I) Inorganic minerals, other inorganic materials, and elemental carbon (e.g., aluminosilicates, clays, smectites, Fuller's earth, ben-
tonite, calcium bentonite, montmorillonite, calcined montmorillonite, kaolinite, micas (illite), vermiculites, zeolites; calcium carbonate (organic free limestone); oxides/hydroxides, alumina, lime, silica (sand), diatomaceous earth; perlite (volcanic glass); expanded volcanic rock; volcanic ash; cement kiln dust; fly ash; rice hull ash; activated charcoal/activated carbon); or

(II) High molecular weight synthetic polymers (e.g., polyethylene, high density polyethylene (HDPE), polypropylene, polystyrene, polyurethane, polyacrylate, polynorbornene, polyisobutylene, ground synthetic rubber, cross-linked allylstyrene and tertiary butyl copolymers). This does not include polymers derived from biological material or polymers specifically designed to be degradable; or

(III) Mixtures of these nonbiodegradable materials.

(B) Tests for nonbiodegradable sorbents.

(I) The sorbent material is determined to be nonbiodegradable under ASTM Method G21-96 (2002) – Standard Practice for Determining Resistance of Synthetic Polymer Materials to Fungi; or

(II) The sorbent material is determined to be nonbiodegradable under OECD (Organization for Economic Cooperation and Development) test 301B: [CO$_2$ Evolution (Modified Sturm Test)].

(v) The placement of any liquid which is not a dangerous waste in a landfill is prohibited unless the owner or operator of such landfill demonstrates to the department, or the department determines, that:

(A) The only reasonably available alternative to the placement in such landfill is placement in a landfill or unlined surface impoundment, whether or not permitted or operating under interim status, which contains, or may reasonably be anticipated to contain, hazardous waste; and

(B) Placement in such owner or operator's landfill will not present a risk of contamination of any underground source of drinking water (as that term is defined in WAC 173-303-040).

(c) Disposal of solid acid waste. No person may land dispose solid acid waste, except as provided in subsection((e)) (5), (6), or (7) of this section. A person is encouraged to reclaim, recycle, recover, treat, detoxify, neutralize, or otherwise process these wastes to remove or reduce their harmful properties or characteristics, provided that such processing is performed in accordance with the requirements of this chapter.

(d) Disposal of organic/carbonaceous waste.

(i) No person may land dispose organic/carbonaceous waste, except as provided in subsection((e)) (5), (6), or (7) of this section. A person is encouraged to reclaim, recycle, recover, treat, detoxify, or otherwise process these wastes to remove or reduce their harmful properties or characteristics, provided that such processing is performed in accordance with the requirements of this chapter. Organic/carbonaceous wastes must be incinerated as a minimum management method according to the dangerous waste management priorities as defined in subsection (1)(a) of this section.

(ii) This prohibition against the land disposal of organic/carbonaceous waste does not apply to black mud generated from the caustic leach recovery of cryolite at primary aluminum smelting plants.

(iii) This prohibition against the land disposal of organic/carbonaceous waste does not apply to any person who certifies to the department that recycling, treatment and incineration facilities are not available within a radius of one thousand miles from Washington state's borders. Such certification must be sent to the department by
certified mail or other means that establish proof of receipt (including applicable electronic means) and must include: The name, address and telephone number of the person certifying; a brief description of the organic/carbonaceous waste covered by the certification; a discussion of the efforts undertaken to identify available recycling, treatment and incineration facilities; and the signature of the person responsible for the certification and development of information used to support the certification. Records and information supporting the certification must be retained by the certifying person and must be made available to the department upon request.

A certification that has been properly submitted to the department will remain valid until the department determines that a recycling, treatment or incineration facility is available within a radius of one thousand miles from Washington state's borders and the person who submitted the certification is unable to demonstrate otherwise. A recycling, treatment or incineration facility will be considered by the department to be available if such facility: Is operating, and; can safely and legally recycle, treat or incinerate the organic/carbonaceous waste, and; has sufficient capacity to receive and handle significant amounts of the waste, and; agrees to accept the waste.

(5) Treatment in land disposal facilities. The land disposal restrictions in subsection (4) of this section do not apply to persons treating dangerous wastes in surface impoundments, waste piles, or land treatment facilities provided that such treatment is performed in accordance with the requirements of this subsection and this chapter.

(a) Surface impoundment treatment.
Liquid waste, extremely hazardous waste (EHW), solid acid waste, and organic/carbonaceous waste may be placed in surface impoundments for purposes of treatment provided the owner/operator can demonstrate that effective treatment of the dangerous waste constituents will occur and at closure the owner/operator complies with the prohibitions and restrictions of subsection (4) of this section.

(b) Waste pile treatment.
Liquid waste, extremely hazardous waste (EHW), solid acid waste, and organic/carbonaceous waste may be placed in waste piles for purposes of treatment provided the owner/operator can demonstrate that effective treatment of dangerous waste constituents will occur and that at closure the owner/operator will be in compliance with the prohibitions and restrictions of subsection (4) of this section.

(c) Land treatment.
Liquid waste, extremely hazardous waste (EHW), and organic/carbonaceous waste may be land treated provided that the owner/operator can demonstrate that effective treatment of dangerous waste constituents will occur, and at the end of the post-closure care period the owner/operator will be in compliance with subsection (4) of this section.

(6) Case-by-case exemptions to a land disposal prohibition. Any person may petition the department for an exemption from a prohibition in subsection (4) of this section for the land disposal of a dangerous waste. The procedures to submit a petition to the department are specified in WAC 173-303-910(6). The department may deny any petition if it determines that there is a potential for dangerous waste constituents to migrate from the land disposal facility where the waste is to be placed. The department will deny any petition when exemption would result in a substantial or imminent threat to public health or the environment. The department will deny any petition when exemption would result in a violation of applicable state laws.
The department may grant an exemption from the prohibitions and restrictions of subsection (4) of this section based on the demonstrations specified in (a), (b) or (c) of this subsection.

(a) Land disposal exemption for treatment residuals. Any person may request an exemption from a land disposal prohibition in subsection (4) of this section for treatment residuals by demonstrating to the department that:

(i) The person has applied the best achievable management method to the original waste; and

(ii) Application of additional management methods to the treatment residuals would prevent the person from utilizing the best achievable management methods for the original dangerous waste; and

(iii) The land disposal of the treatment residuals does not pose a greater risk to the public health and the environment than land disposal of the original dangerous waste would pose.

(b) Economic hardship exemption. Any person may request an exemption from a prohibition in subsection (4) of this section for the land disposal of a dangerous waste by demonstrating to the department that alternative management of the dangerous waste will impose an unreasonable economic burden in relation to the threat of harm to public health and the environment. It will be solely within the discretion of the department to approve or deny the requests for exemptions based on economic hardship.

(c) Organic/carbonaceous waste exemption. Any person may request an exemption from the requirements in subsection (4) of this section by demonstrating to the department that:

(i) Alternative management methods for organic/carbonaceous waste are less protective of public health and the environment than stabilization or landfilling; or

(ii) (A) The organic/carbonaceous waste has a heat content less than 3,000 BTU/LB or contains greater than sixty-five percent water or other noncombustible moisture; and

(B) Incineration is the only management method available within a radius of one thousand miles from Washington state's border (i.e., recycling or treatment are not available).

(7) Emergency cleanup provision. The department may, on a case-by-case basis, grant an exception to the land disposal restrictions in subsection (4) of this section for an emergency cleanup where an imminent threat to public health and the environment exists. Any exception will require compliance with applicable state law and will require (consistent with the nature of the emergency and imminent threat) application of the waste management priorities of RCW 70.105.150.

AMENDATORY SECTION (Amending WSR 09-14-105, filed 6/30/09, effective 7/31/09)
container or inner liner (for example, pouring, pumping, aspirating, etc.) and:

(i) No more than one inch of waste remains at the bottom of the container or inner liner; or

(ii) No more than 3 percent by weight of the total capacity of the container remains in the container or inner liner if the container is less than or equal to 119 gallons in size; or

(iii) No more than 0.3 percent by weight of the total capacity of the container remains in the container or inner liner if the container is greater than 119 gallons in size.

A container that held compressed gas is empty when the pressure inside the container equals or nearly equals atmospheric pressure; and

(b) If the container or inner liner held acutely hazardous waste, as defined in WAC 173-303-040, toxic EHW as defined in WAC 173-303-100 or pesticides bearing the danger or warning label, the container or inner liner has been rinsed at least three times with an appropriate cleaner or solvent. The volume of cleaner or solvent used for each rinsing must be ten percent or more of the container's or inner liner's capacity or of sufficient quantity to thoroughly decontaminate the container. In lieu of rinsing for containers that might be damaged or made unusable by rinsing with liquids (for example, fiber or cardboard containers without inner liners), an empty container may be vacuum cleaned, struck, with the open end of the container up, three times (for example, on the ground, with a hammer or hand) to remove or loosen particles from the inner walls and corners, and vacuum cleaned again. Equipment used for the vacuum cleaning of residues from containers or inner liners must be decontaminated before discarding, in accordance with procedures approved by the department. A container or inner liner is also considered "empty" if the container or inner liner has been cleaned by another method that has been shown in the scientific literature, or by tests conducted by the generator, to achieve equivalent removal.

Any rinsate or vacuumed residue that results from the cleaning of containers or inner liners must, whenever possible, be reused in a manner consistent with the original intended purpose of the substance in the container or inner liner. In the case of a farmer, if the rinsate is a pesticide residue then the rinsate must be managed or reused in a manner consistent with the application instructions on the pesticide label. On-site disposal or burial of pesticide residues is prohibited. Otherwise, the rinsate must be checked against the designation requirements (WAC 173-303-070 through 173-303-100) and, if designated, managed according to the requirements of this chapter.

(c) In the case of a container, the inner liner, that prevented the container from contact with the commercial chemical product or manufacturing chemical, has been removed.

(3)(a) Any residues remaining in containers or inner liners that are "empty" as described in subsection (2) of this section will not be subject to the requirements of this chapter, and will not be considered as accumulated wastes for the purposes of calculating waste quantities.

(b) Any dangerous waste in either: A container that is not empty, or an inner liner removed from a container that is not empty (as defined in subsection (2) of this section) is subject to the requirements of this chapter.

(4) A person who cannot meet the provisions in (2)(b) of this section may petition the department to approve alternative container rinsing processes in accordance with WAC 173-303-910(1).
WAC 173-303-169 Quantity exclusion limits—Generator category determinations. A generator must determine its generator category. A generator’s category is based on the amount of dangerous waste generated each month and may change from month to month. This section sets forth procedures to determine whether a generator is a small quantity generator, a medium quantity generator, or a large quantity generator for a particular month, as defined in WAC 173-303-040.

(1) Quantity exclusion limits. In each of the designation sections describing the lists, characteristics, and criteria, quantity exclusion limits (QEL) are identified. The QEL is the quantity of dangerous waste generated in a calendar month used to distinguish when a dangerous waste is only subject to the small quantity generator provisions, the medium quantity generator provisions, or when a dangerous waste is subject to the large quantity generator provisions. Any solid waste (which is not excluded or exempted) that is listed, exhibits a characteristic, or meets the criteria of this chapter is a dangerous waste.

(2) Aggregated waste quantities.
   (a) A person may be generating more than one kind of dangerous waste. In such cases, they must consider the aggregate quantity of their wastes when determining whether or not their waste amounts exceed the specific quantity exclusion limits (QEL) for waste generation;
   (b) Waste quantities must be aggregated for all waste with common QELs. Example: If a person generates 100 pounds of an ignitable waste and 130 pounds of a persistent waste, then both wastes are regulated because the aggregate waste quantity (230 pounds) exceeds the common QEL of 220 pounds. On the other hand, if a person generates one pound of toxic EHW and 218 pounds of a corrosive waste, their quantities would not be aggregated because they do not share a common QEL (2.2 pounds and 220 pounds, respective QELs).

(3) Generator category determination.
   (a) Determine separately the resulting generator categories for the quantities of waste with a 2.2 pound QEL and for the quantities of waste with a 220 pound QEL using Table 1 of this section; and
   (b) Compare the resulting generator categories from (a) of this subsection and apply the more stringent generator category to the accumulation and management of dangerous waste with a 2.2 pound QEL and with a 220 pound QEL.

Table 1
Generator Categories Based on Quantity of Waste Generated in a Calendar Month

<table>
<thead>
<tr>
<th>Quantity of dangerous waste with a QEL of 2.2 pounds generated in a calendar month</th>
<th>Quantity of dangerous waste with a QEL of 220 pounds generated in a calendar month</th>
<th>Quantity of residue from a cleanup of dangerous waste with a QEL of 2.2 pounds generated in a calendar month</th>
<th>Generator category</th>
</tr>
</thead>
<tbody>
<tr>
<td>&gt; 2.2 pounds</td>
<td>Any amount</td>
<td>Any amount</td>
<td>Large quantity generator.</td>
</tr>
<tr>
<td>Any amount</td>
<td>≥ 2,200 pounds</td>
<td>Any amount</td>
<td>Large quantity generator.</td>
</tr>
<tr>
<td>Any amount</td>
<td>Any amount</td>
<td>&gt; 220 pounds</td>
<td>Large quantity generator.</td>
</tr>
<tr>
<td>≤ 2.2 pounds</td>
<td>&gt; 220 pounds and &lt; 2,200 pounds</td>
<td>≤ 220 pounds</td>
<td>Medium quantity generator.</td>
</tr>
</tbody>
</table>
When making the quantity determinations of this subsection and WAC 173-303-170 through 173-303-230, generators must include all dangerous wastes they generate, except dangerous waste that:

(a) Is exempt from regulation under WAC 173-303-071; or
(b) Is recycled under WAC 173-303-120 (2)(a), (3)(c), (e), (h) or (5); or
(c) Is managed in accordance with WAC 173-303-802(5) immediately upon generation only in on-site elementary neutralization units, wastewater treatment units, or totally enclosed treatment facilities as defined in WAC 173-303-040; or
(d) Is recycled, without prior storage or accumulation, only in an on-site process subject to regulation under WAC 173-303-120 (4)(a); or
(e) Is spent lead-acid batteries managed under the requirements of WAC 173-303-120 (3)(f) and 173-303-520; or
(f) Is universal waste managed under WAC 173-303-077 and 173-303-573; or
(g) Is a dangerous waste that is an unused commercial chemical product (listed in WAC 173-303-9903 or exhibits one or more characteristics or criteria listed in WAC 173-303-090 or 173-303-100) that is generated solely as a result of a laboratory clean-out conducted at an eligible academic entity pursuant to WAC 173-303-235(14). For purposes of this provision, the term eligible academic entity shall have the meaning as defined in WAC 173-303-235(1).
(h) (Reserved.)
(i) Is managed as part of an episodic event in compliance with the conditions of WAC 173-303-173.

(5) In determining the quantity of dangerous waste generated, a generator need not include:
(a) Dangerous waste when it is removed from on-site storage; or
(b) Spent materials that are generated, reclaimed, and subsequently reused on site, as long as such spent materials have been counted once (note: If after treatment or reclamation a residue is generated with a different waste code(s), that residue must be counted); or
(c) The container holding/containing the dangerous waste as described under WAC 173-303-160(1).

(6) Based on the generator category as determined under this section, the generator must meet the applicable independent requirements listed in WAC 173-303-170. A generator's category also determines which of the provisions of WAC 173-303-171, 173-303-172, 173-303-174 or 173-303-200 must be met to obtain an exemption from the storage facility permit, interim status, and operating requirements when accumulating dangerous waste.

(a) In a calendar month, if a small quantity generator generates more than the amounts specified in the definition of "small quantity generator" in WAC 173-303-040, the generator becomes subject to full requirements of a medium quantity generator or large quantity generator of this chapter, respectively, and cannot again be a small quantity generator until after all dangerous waste on site at the time they were generated has been removed from site.
became fully regulated have been properly treated or disposed at a designated facility.

Example. If a person generates 4 pounds of an acute hazardous waste discarded chemical product (QEL 2.2 pounds) and 200 pounds of an ignitable waste (QEL 220 pounds), then both wastes are fully regulated, and the person is not a small quantity generator for either waste. "Fully regulated" in this example means the regulations applicable to a large quantity generator.

(b) In a calendar month if a medium quantity generator generates more than the amounts specified in the definition of "medium quantity generator" in WAC 173-303-040 the generator becomes subject to full requirements of a large quantity generator of this chapter, and cannot again be a medium quantity generator until after all dangerous waste on site at the time they became fully regulated have been properly treated or disposed at a designated facility.

AMENDATORY SECTION (Amending WSR 15-01-123, filed 12/18/14, effective 1/18/15)

WAC 173-303-170 Requirements for generators of dangerous waste.

((1) A person is a dangerous waste generator if their solid waste is designated by the requirements of WAC 173-303-070 through 173-303-100.

(a) The generator is responsible for designating their waste as DW or EHW.

(b) The generator may request an exemption for their dangerous waste according to the procedures of WAC 173-303-072.

(2) A dangerous waste generator must notify the department and obtain an EPA/state identification number as required by WAC 173-303-060, and must comply with the requirements of WAC 173-303-170 through 173-303-230.

(3) Any generator who stores, treats, or disposes of dangerous waste on-site must perform their operations in accordance with the TSD facility requirements (as specified by WAC 173-303-600) with the following exceptions:

(a) Generators who accumulate dangerous wastes for less than ninety days as allowed under WAC 173-303-200 or for less than one hundred eighty days as allowed under WAC 173-303-201 and 173-303-202;

(b)) Any person who generates a solid waste must determine if their solid waste designates as DW or EHW by the requirements of WAC 173-303-070 through 173-303-100. A person is a dangerous waste generator if their solid waste is designated as such.

(1) The following definitions apply to this section:

(a) "Condition for exemption" means any requirement in WAC 173-303-171 through 173-303-174, 173-303-200 through 173-303-201, 173-303-235 and also in WAC 173-303-160 (2)(b) in reference to farmers, that states an event, action, or standard that must occur or be met in order to obtain an exemption from any applicable requirement in WAC 173-303-400, 173-303-600, 173-303-800 and from any requirement for notification under WAC 173-303-060.

(b) "Independent requirement" means a requirement of WAC 173-303-170(2) that states an event, action, or standard that must occur or be met, and that applies without relation to, or irrespective of, the purpose of obtaining a conditional exemption.
(a) A person who generates a dangerous waste is subject to all the applicable independent requirements in the sections and subsections listed below:

(i) Independent requirements of a small quantity generator:
(A) Designate their waste in accordance with WAC 173-303-070;
(B) Determine generator category in accordance with WAC 173-303-169;
(C) Manage their waste in a way that does not pose a potential threat to human health or the environment; and
(D) Submit an annual report in accordance with WAC 173-303-220 if they have obtained an EPA/state identification number pursuant to WAC 173-303-060; and
(E) If a small quantity generator's wastes are mixed with used oil, the mixture is subject to WAC 173-303-510 if it is destined to be burned for energy recovery. Any material produced from such a mixture by processing, blending, or other treatment is also subject to WAC 173-303-510 if it is destined to be burned for energy recovery; and
(F) If a small quantity generator's used oil is to be recycled by being burned for energy recovery or rerefined, the used oil is subject to WAC 173-303-515.

(ii) Independent requirements of a medium quantity generator:
(A) WAC 173-303-070 Designation of dangerous waste. The generator is responsible for designating their waste as DW or EHW;
(B) WAC 173-303-169 Quantity exclusion limits—Generator category determinations. The generator is responsible for determining their generator category;
(C) WAC 173-303-060 Notification and identification numbers. A dangerous waste generator must notify the department and obtain an EPA/state identification number as required by WAC 173-303-060;
(D) WAC 173-303-140. The generator must comply with all applicable land disposal restrictions for dangerous wastes in WAC 173-303-140;
(E) WAC 173-303-180 Manifest;
(F) WAC 173-303-190 Preparing dangerous waste for transport;
(G) WAC 173-303-210 Generator recordkeeping;
(H) WAC 173-303-220 Generator reporting;
(I) WAC 173-303-230 Special conditions.

(iii) Independent requirements of a large quantity generator:
(A) WAC 173-303-070 Designation of dangerous waste. The generator is responsible for designating their waste as DW or EHW;
(B) WAC 173-303-169 Quantity exclusion limits—Generator category determinations. The generator is responsible for determining their generator category;
(C) WAC 173-303-060 Notification and identification numbers. A dangerous waste generator must notify the department and obtain an EPA/state identification number as required by WAC 173-303-060;
(D) WAC 173-303-140. The generator must comply with all applicable land disposal restrictions for dangerous wastes in this section;
(E) WAC 173-303-180 Manifest;
(F) WAC 173-303-190 Preparing dangerous waste for transport;
(G) WAC 173-303-210 Generator recordkeeping;
(H) WAC 173-303-220 Generator reporting;
(I) WAC 173-303-230 Special conditions.
A generator that accumulates dangerous waste on site is a person that stores dangerous waste. Any generator who stores, treats, or disposes of dangerous waste on site must perform their operations in accordance with the TSD facility requirements (as specified by WAC 173-303-600) with the following exceptions:

(i) A small quantity generator that meets the conditions for exemption in WAC 173-303-171; or

(ii) A medium quantity generator that meets the conditions of exemption in WAC 173-303-172 and 173-303-174; or

(iii) A large quantity generator that meets the conditions for exemption in WAC 173-303-174, 173-303-200, and 173-303-201.

(iv) In addition to complying with the requirements of (b)(ii) of this subsection for medium quantity generators, and (b)(iii) of this subsection for large quantity generators, generators that treat their dangerous waste on site must:

(A) Not treat dangerous waste on drip pads; and

(B) Maintain a treatment log showing dates and amounts of waste treated; and

(C) Comply with 173-303-283(3).

(v) A generator who treats special waste on site provided:

(A) The accumulation standards of WAC 173-303-073 (2)(a) and (b) are met;

(B) When treated in units other than tanks or containers, the unit is designed, constructed, and operated in a manner that prevents:

(I) A release of waste and waste constituents to the environment;

(II) Endangerment of health of employees or the public;

(III) Excessive noise; and

(IV) Negative aesthetic impact on the use of adjacent property.

(C) The treatment unit must also be inspected routinely for deterioration that would lead to a release and repairs must be conducted promptly.

(c) A generator shall not transport, offer its dangerous waste for transport, or otherwise cause its dangerous waste to be sent to a facility that is not a designated facility, as defined in WAC 173-303-040, or not otherwise authorized to receive the generator's dangerous waste.

(3) Determining generator category. A generator must use WAC 173-303-169 to determine which provisions of this section are applicable to the generator based on the quantity of dangerous waste generated per month.

(4) Any person who exports or imports dangerous waste must comply with WAC 173-303-060 and 173-303-230.

(5) Violations of independent requirements or conditions for exemption:

(a) Independent requirement violations. A generator's violation of an independent requirement is subject to penalty and injunctive relief under this chapter 173-303 WAC and RCW 70.105.080.

(b) Condition for exemption violations. A generator's noncompliance with a condition for exemption in this section is not subject to penalty or injunctive relief under the authority of this chapter 173-303 WAC or RCW 70.105.080 as a violation of a condition of exemption. Noncompliance by any generator with an applicable condition for exemption from a storage permit and operations requirements means that the facility is a storage facility operating without an exemption from the permit, interim status, and operations requirements in WAC 173-303-400, 173-303-600, 173-303-800, 173-303-500 through 173-303-578, 173-303-700, and the notification requirements of WAC
173-303-060. Without an exemption, any violations of such storage requirements are subject to penalty and injunctive relief under this chapter 173-303 WAC and RCW 70.105.080.

(c) Generators who treat dangerous waste on-site in accumulation tanks, containers, and containment buildings provided that the generator maintains a log showing the date and amount of waste treated and complies with:

(i) The applicable requirements of WAC 173-303-200, 173-303-201, and 173-303-202; and

(ii) WAC 173-303-283(3);

(c) Generators who treat special waste on-site provided:

(i) The accumulation standards of WAC 173-303-073 (2)(a) and (b) are met;

(ii) When treated in units other than tanks or containers, the unit is designed, constructed, and operated in a manner that prevents:

A. A release of waste and waste constituents to the environment;

B. Endangerment of health of employees or the public;

C. Excessive noise;

D. Negative aesthetic impact on the use of adjacent property.

(iii) The treatment unit must also be inspected routinely for deterioration that would lead to a release and repairs must be conducted promptly.

4. The generator must comply with the special land disposal restrictions for certain dangerous wastes in WAC 173-303-140.

5. Persons responding to an explosives or munitions emergency in accordance with WAC 173-303-400 (2)(c)(xiii)(A)(IV) or 173-303-600 (3)(p)(i)(D) or (3)(p)(iv), and WAC 173-303-800 (7)(c)(i)(D) or (7)(c)(i)(E) are not required to comply with the standards of WAC 173-303-170 through 173-303-230.

6. Any person who exports or imports hazardous waste subject to the manifesting requirements of WAC 173-303-180, the universal waste management standards of WAC 173-303-573, or to the export requirements in the spent lead-acid battery management standards of WAC 173-303-520, or to or from another country for recovery or disposal must comply with 40 C.F.R. 262.58 (a)(1)) another country for recovery or disposal must comply with 40 C.F.R. 262 subpart H. 40 C.F.R. 262 subpart H is incorporated by reference at WAC 173-303-230(1).

7. The laboratories owned by an eligible academic entity that chooses to be subject to the requirements of WAC 173-303-235 are not subject to (for purposes of this subsection, the terms "laboratory" and "eligible academic entity" shall have the meaning as defined in WAC 173-303-235(1)):

(a) The requirements of WAC 173-303-070(3) or (173-303-200(2)(d)) the regulations in WAC 173-303-174 for large quantity generators and medium quantity generators (regulated under WAC 173-303-201), except as provided in WAC 173-303-235; and

(b) The conditions of WAC (173-303-070(8)(b)) 173-303-171, for small quantity generators, except as provided in WAC 173-303-235.

NEW SECTION

WAC 173-303-171 Conditions for exemption for a small quantity generator. (1) Provided that the small quantity generator meets all
the conditions for exemption listed in this section, dangerous waste generated by the small quantity generator is not subject to regulation under this chapter except for WAC 173-303-050, 173-303-070, 173-303-145, 173-303-169, 173-303-170, 173-303-171 and 173-303-960. The conditions for exemption are as follows:

(a) In a calendar month the small quantity generator generates less than or equal to the amounts specified in the definition of "small quantity generator" in WAC 173-303-040;

(b) The small quantity generator complies with WAC 173-303-070;

(c) The quantity accumulated or stored at any time does not exceed 2,200 pounds for wastes with a 220 pound QEL and 2.2 pounds for waste with a 2.2 pound QEL. (Exception: The accumulation limit for the acute hazardous wastes described in WAC 173-303-081 (2)(a)(iv) and 173-303-082 (2)(b) and for extremely hazardous waste WT01 is 220 pounds);

(d) If a person accumulates or stores any dangerous wastes that exceed the accumulation limits set forth in (c) of this subsection, then all dangerous waste accumulated or stored by that person is subject to the requirements for the conditions for exemption for a large quantity generator in WAC 173-303-200.

(e) A small quantity generator that accumulates dangerous waste in amounts less than or equal to the limits in (c) of this subsection must either treat or dispose of their dangerous waste in an on-site facility, or ensure delivery to an off-site facility, either of which, if located in the United States, is:

(i) Permitted (including permit-by-rule, interim status, or final status) under WAC 173-303-800 through 173-303-840;

(ii) Authorized to manage dangerous waste by another state with a hazardous waste program approved under 40 C.F.R. Part 271, or by EPA under 40 C.F.R. Part 270;

(iii) Permitted to manage moderate risk waste under chapter 173-350 WAC (Solid waste handling standards), operated in accordance with state and local regulations, and consistent with the applicable local hazardous waste plan that has been approved by the department;

(iv) A facility that beneficially uses or reuses, or legitimately recycles or reclaims the dangerous waste, or that treats the waste prior to such recycling activities;

(v) Permitted, licensed, or registered to manage municipal solid waste and, if managed in a municipal solid waste landfill, is subject to 40 C.F.R. Part 258 or chapter 173-351 WAC;

(vi) Permitted, licensed, or registered by a state to manage non-municipal nonhazardous waste and, if managed in a nonmunicipal nonhazardous waste disposal unit after January 1, 1998, is subject to the requirements in 40 C.F.R. 257.5 through 257.30;

(vii) A publicly owned treatment works (POTW): Provided, that small quantity generator(s) comply with the provisions of the domestic sewage exclusion found in WAC 173-303-071 (3)(a);

(viii) For universal waste managed under WAC 173-303-573, a universal waste handler or destination facility subject to the requirements of WAC 173-303-573; or

(ix) A large quantity generator under the control of the same person as the small quantity generator, provided the following conditions are met:

(A) The small quantity generator and the large quantity generator are under the control of the same person as defined in WAC 173-303-040 of this chapter. Contractors, consultants, transporters, etc., who operate generator facilities on behalf of a different person as defined
in WAC 173-303-040 of this chapter shall not be deemed to "control" such generators.

(B) The small quantity generator clearly labels or marks each container(s) and tank(s) of dangerous waste with the words "dangerous waste" or "hazardous waste" where the label or marking is legible from a distance of twenty-five feet or the lettering size is a minimum of one-half inch in height.

(C) The small quantity generator clearly labels or marks each container(s) and tank(s) of dangerous waste with an indication of the hazards of the contents (examples include, but not limited to, the applicable dangerous waste characteristic(s) and criteria of ignitable, corrosive, reactive and toxic and the applicable hazard(s) identified for listed dangerous wastes). The label or marking must be:

(I) Legible and recognizable from a distance of twenty-five feet or the lettering size is a minimum of one-half inch in height; and

(II) Include descriptive word(s) and/or pictogram(s) that identifies the hazards associated with the contents of the containers for the public, emergency response personnel and employees.

(2) The placement of bulk or noncontainerized liquid dangerous waste or dangerous waste containing free liquids (whether or not sorbents have been added) in any landfill is prohibited.

(3) A small quantity generator experiencing an episodic event may generate and accumulate dangerous waste from the episodic event in accordance with WAC 173-303-173 in lieu of WAC 173-303-172 and 173-303-200.

NEW SECTION

WAC 173-303-172 Conditions for exemption for a medium quantity generator that accumulates dangerous waste. A medium quantity generator, not to include transporters as referenced in WAC 173-303-240(3), may accumulate dangerous waste on site without a permit, interim status, and without complying with the requirements of WAC 173-303-600 provided that all the following conditions for exemption listed in this section are met. The special provisions of this section do not apply to acutely hazardous wastes or toxic EHW (WT01) that exceed the QEL that are being generated or accumulated by the generator.

(1) Off-site shipments. All dangerous waste is shipped off site to a designated facility or placed in an on-site facility which is permitted by the department under WAC 173-303-800 through 173-303-845 or recycled or treated on site in one hundred eighty days or less. A generator who accumulates dangerous waste for more than one hundred eighty days is an operator of a storage facility and is subject to the facility requirements of this chapter and the permit requirements of this chapter as a storage facility unless the generator has been granted an extension to the one hundred eighty-day period by the department as described in subsection (3) of this section.

(2) Generation. The generator generates in a calendar month no more than the amounts specified in the definition of "medium quantity generator" in WAC 173-303-040.

(3) Accumulation time limit. The generator accumulates dangerous waste on site for no more than one hundred eighty days unless the department has granted a maximum ninety-day extension to this one hundred eighty-day period. The department may, on a case-by-case basis,
grant a maximum ninety-day extension to this one hundred eighty-day period if the generator must transport its waste, or offer its waste for transportation, over a distance of two hundred miles or more for off-site treatment, storage, or disposal and the dangerous wastes must remain on site due to unforeseen, temporary, and uncontrollable circumstances. For the purposes of this section, the one hundred eighty-day accumulation period begins on the date that:

(a) The generator first generates a dangerous waste; or
(b) The generator exceeds its satellite accumulation limits prescribed in WAC 173-303-174(1).

(4) Accumulation limit. The quantity of dangerous waste accumulated on site never exceeds the following limits at any one time:

(a) 2,200 Pounds of dangerous waste; or
(b) 2.2 Pounds of acutely hazardous waste or toxic EHW (WT01);
and

(c) 220 Pounds of residues from a cleanup of acutely hazardous waste and/or toxic EHW (WT01).

(5) Accumulation of waste in containers.

(a) Condition of containers. If a container holding dangerous waste is not in good condition (e.g., severe corroding or rusting or flaking or scaling, and/or apparent structural defects) or if it begins to leak or is leaking, the generator must transfer the dangerous waste to a container that is in good condition and does not leak, and continue to manage that container and waste in compliance with the conditions for exemption of this section. In addition, the owner or operator must address leaks and spills in accordance with the applicable provisions of WAC 173-303-145 and 173-303-960.

(b) Compatibility of waste with container. The generator must use a container made of or lined with materials which will not react with, and are otherwise compatible with, the dangerous waste to be stored, so that the ability of the container to contain the waste is not impaired.

(c) Management of containers.

(i) A container holding dangerous waste must be closed at all times, except when it is necessary to add or remove waste.

(ii) A container holding dangerous waste must not be opened, handled, or stored in a manner which may rupture the container or cause it to leak.

(iii) A minimum thirty-inch aisle space separation is required between rows of containers. A row of containers must be no more than two wide and allow for unobstructed inspection of each container.

(d) Inspections. The generator must conduct "weekly inspections," as defined in WAC 173-303-040, of each central accumulation area looking for leaking containers and for deterioration of containers and the containment system caused by corrosion, deterioration, or other factors. The generator must keep a written or electronic inspection log including at least the date and time of the inspection, the printed name and the handwritten or electronic signature of the inspector, a notation of the observations made and the date and nature of any repairs or remedial actions taken. The log must be kept at the facility for at least five years from the date of inspection. The generator must take remedial action in accordance with (a) of this subsection if deterioration or leaks are detected.

(e) Secondary containment. For container accumulation the department requires that the central accumulation area(s) include secondary containment in accordance with WAC 173-303-630(7).

(f) Special requirements for ignitable or reactive waste.
(i) Containers holding reactive waste exhibiting a characteristic specified in WAC 173-303-090 (7)(a)(vi), (vii) or (viii) must be stored in a manner equivalent to separation distances for storage of explosives in the International Fire Code, 2015 edition, or the version adopted by the local fire district.

(ii) The generator must design, operate, and maintain ignitable waste and reactive waste (other than a reactive waste which must meet the requirements of (f)(i) of this subsection) container storage in a manner equivalent with the International Fire Code. Where no specific standard or requirements are specified in the International Fire Code, or in existing state or local fire codes, applicable sections of NFPA 30 "Flammable and Combustible Liquids Code" must be used. The generator must also comply with the requirements of WAC 173-303-395 (1)(d).

(g) Special requirements for incompatible wastes.

(i) Incompatible wastes, or incompatible wastes and materials must not be placed in the same container, unless WAC 173-303-395 (1)(b) is complied with.

(ii) Dangerous waste must not be placed in an unwashed container that previously held an incompatible waste or material.

(iii) A storage container holding a dangerous waste that is incompatible with any waste or other materials stored nearby in other containers, piles, open tanks, or surface impoundments must be separated from the other materials or protected from them by means of a dike, berm, wall, or other device. Containment systems for incompatible wastes must be separate.

(h) Closure.

(i) At closure, all dangerous waste and dangerous waste residues must be removed from the containment system. Remaining containers, liners, bases, and soil, containing or contaminated with dangerous waste or dangerous waste residues must be decontaminated or removed.

(ii) In addition, such a generator is exempt from all the requirements in WAC 173-303-610 and 173-303-620, except for WAC 173-303-610 (2) and (5).

(6) Accumulation of dangerous waste in tanks.

(a) Operating requirements. Generators must comply with the following general operating requirements:

(i) Treatment or storage of dangerous waste in tanks must comply with WAC 173-303-395(1).

(ii) Dangerous wastes or treatment reagents must not be placed in a tank if they could cause the tank or its inner liner to rupture, leak, corrode, or otherwise fail before the end of its intended life.

(iii) Uncovered tanks must be operated to ensure at least sixty centimeters (two feet) of freeboard, unless the tank is equipped with a containment structure (e.g., dike or trench), a drainage control system, or a diversion structure (e.g., standby tank) with a capacity that equals or exceeds the volume of the top sixty centimeters (two feet) of the tank.

(iv) Where dangerous waste is continuously fed into a tank, the tank must be equipped with a means to stop this inflow (e.g., waste feed cutoff system or bypass system to a standby tank).

Note: These systems are intended to be used in the event of a leak or overflow from the tank due to a system failure (e.g., a malfunction in the treatment process, a crack in the tank, etc.).

(b) Inspections. Generators must inspect the following:

(i) Discharge control equipment (e.g., waste feed cutoff systems, bypass systems, and drainage systems) at least once each operating day, to ensure that it is in good working order;
(ii) Data gathered from monitoring equipment (e.g., pressure and temperature gauges) at least once each operating day to ensure that the tank is being operated according to its design;

(iii) The level of waste in the tank at least once each operating day to ensure compliance with (a)(iii) of this subsection;

(iv) "Weekly inspections" as defined in WAC 173-303-040, must be conducted on the construction materials of the tank to detect corrosion or leaking of fixtures or seams; and

(v) "Weekly inspections," as defined in WAC 173-303-040, must be conducted on the construction materials of, and the area immediately surrounding, discharge confinement structures (e.g., dikes) to detect erosion or obvious signs of leakage (e.g., wet spots or dead vegetation). The generator must remedy any deterioration or malfunction of equipment or structures which the inspection reveals on a schedule which ensures that the problem does not lead to an environmental or human health hazard. Where a hazard is imminent or has already occurred, remedial action must be taken immediately.

(vi) A generator accumulating dangerous waste in tanks or tank systems that have full secondary containment and that either use leak detection equipment to alert personnel to leaks, or implement established workplace practices to ensure leaks are promptly identified, must conduct "weekly inspections" as defined in WAC 173-303-040, where applicable, the areas identified in (b)(i) through (v) of this subsection.

(c) Closure.

(i) Generators accumulating dangerous waste in tanks must, upon closure of the facility, remove all dangerous waste from tanks, discharge control equipment, and discharge confinement structures. At closure, as throughout the operating period, unless the generator can demonstrate, in accordance with WAC 173-303-070 (2)(a) or (b), that any solid waste removed from the tank is not a dangerous waste, then it must manage such waste in accordance with all applicable provisions of this chapter.

(ii) In addition, such a generator is exempt from all the requirements in WAC 173-303-610 and 173-303-620, except for WAC 173-303-610 (2) and (5).

(d) Special conditions for ignitable or reactive waste. Generators must comply with the following special requirements for ignitable or reactive waste:

(i) Ignitable or reactive waste must not be placed in a tank, unless:

(A) The waste is treated, rendered, or mixed before or immediately after placement in a tank so that:

(I) The resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under WAC 173-303-090 (5) or (7); and

(II) WAC 173-303-395(1) is complied with.

(B) The waste is stored or treated in such a way that it is protected from any material or conditions that may cause the waste to ignite or react; or

(C) The tank is used solely for emergencies.

(ii) A generator who treats or stores ignitable or reactive waste in covered tanks must comply with the buffer zone requirements for tanks contained in NFPA 30, "Flammable and Combustible Liquids Code."

(e) Special requirements for incompatible waste. Generators must comply with the following special requirements for incompatible wastes:
(i) Incompatible wastes, or incompatible wastes and materials, (see 40 C.F.R. Part 265, Appendix V for examples) must not be placed in the same tank, unless WAC 173-303-395(1) is complied with.

(ii) Dangerous waste must not be placed in an unwashed tank which previously held an incompatible waste or material, unless WAC 173-303-395(1) is complied with.

(7) Accumulation of dangerous waste on drip pads. If the waste is placed on drip pads, the generator must comply with the following:
   (a) WAC 173-303-675;
   (b) Remove all wastes from the drip pad and associated collection system at least once every ninety days;
   (c) Waste removed from drip pads and associated collection systems must be sent immediately to:
      (i) An off-site designated facility; or
      (ii) An on-site permitted facility; or
      (iii) An on-site central accumulation area where the waste is managed in compliance with the on-site central accumulation area regulations in this section for the remainder of the one hundred eighty day accumulation time limit for medium quantity generators. (Example: A generator removes waste from the drip pad at eighty days, the generator is then allowed to further accumulate that waste in its central accumulation area for up to an additional one hundred days);
   (d) Maintain the following records on site and readily available for inspection:
      (i) The original start date the waste was first placed on, or began to accumulate on, the drip pad;
      (ii) A description of procedures that will be followed to ensure that all wastes are removed from the drip pad and associated collection system at least once every ninety days; and
      (iii) Documentation of each waste removal, including the quantity of waste removed from the drip pad and the sump or collection system and the date and time of removal.

(8) Accumulation of dangerous waste in containment buildings. If the waste is placed in containment buildings, the generator must comply with the following:
   (a) 40 C.F.R. Part 265, Subpart DD, which is incorporated by reference; and
   (b) Labeling.
      (i) The generator must label its containment building with the words "Dangerous Waste" or "Hazardous Waste" in a conspicuous place easily visible and legible to employees, visitors, emergency responders, waste handlers, or other persons on site. The label must be visible and legible from a distance of twenty-five feet or the lettering size is a minimum of one-half inch in height; and
      (ii) The generator must also, in a conspicuous place easily visible and legible to employees, visitors, emergency responders, waste handlers, or other persons on site, provide its containment building with an indication of the hazards of the contents (examples include, but are not limited to, the applicable dangerous waste characteristic(s) and criteria of ignitable, corrosive, reactive and toxic and the applicable hazard(s) identified for listed dangerous wastes). The indication must be:
         (A) Legible and/or recognizable from a distance of twenty-five feet or the lettering is a minimum of one-half inch in height; and
         (B) Include descriptive word(s) and/or pictogram(s) that identifies the hazards associated with the contents.
(c) Records. The generator must also maintain the following records at the facility:

(i) The independent qualified registered professional engineer certification that the building complies with the design standards specified in 40 C.F.R. 265.1101. This certification must be placed in the generator's files no later than sixty days after the date of initial operation of the unit. Where subpart G and H are referenced in 40 C.F.R. 265.1102, replace them with WAC 173-303-610 and 173-303-620.

(ii) A written description of procedures to ensure that each waste volume remains in the unit for no more than ninety days, a written description of the waste generation and management practices for the facility showing that they are consistent with respecting the ninety-day limit, and documentation that the procedures are complied with; or

(iii) Documentation that the unit is emptied at least once every ninety days.

(iv) Inventory logs or records with the above information must be maintained on site and readily available for inspection.

(9) Labeling and marking of containers and tanks in central accumulation areas.

(a) A generator must mark or label its containers as follows:

(i) With the date upon which each period of accumulation begins is marked and clearly visible for inspection on each container.

(ii) With the words "Dangerous Waste" or "Hazardous Waste" where the label or marking is legible from a distance of twenty-five feet or the lettering size is a minimum of one-half inch in height.

(iii) With an indication of the hazards of the contents (examples include, but are not limited to, the applicable dangerous waste characteristic(s) and criteria of ignitable, corrosive, reactive and toxic and the applicable hazard(s) identified for listed dangerous wastes). The label or marking must be:

(A) Legible and/or recognizable from a distance of twenty-five feet or the lettering size is a minimum one-half inch in size; and

(B) Include descriptive word(s) and/or pictogram(s) that identifies the hazards associated with the contents of the containers for the public, emergency response personnel, and employees.

(b) Generators accumulating dangerous waste in tanks must do the following:

(i) Clearly mark or label its tanks with the words "Dangerous Waste" or "Hazardous Waste" where the label or marking is legible from a distance of twenty-five feet or the lettering size is a minimum of one-half inch in size.

(ii) Clearly mark or label its tanks with an indication of the hazards of the contents (examples include, but are not limited to, the applicable dangerous waste characteristic(s) and criteria of ignitable, corrosive, reactive and toxic and the applicable hazard(s) identified for listed dangerous wastes). The label or marking must be:

(A) Legible and/or recognizable from a distance of twenty-five feet or the lettering size is a minimum one-half inch in size; and

(B) Include descriptive word(s) and/or pictogram(s) that identifies the hazard associated with the contents of the tanks for the public, emergency response personnel, and employees.

(iii) Use inventory logs, monitoring equipment, or other records to demonstrate that dangerous waste has been emptied within one hundred eighty days of first entering the tank if using a batch process, or in the case of a tank with a continuous flow process, demonstrate...
that estimated volumes of dangerous waste entering the tank daily exit the tank within one hundred eighty days of first entering.

(iv) Keep inventory logs or records with the above information on site and readily available for inspection.

(c) The department may also require that a sign be posted at each entrance to the accumulation area, bearing the legend, "danger - unauthorized personnel keep out," or an equivalent legend, written in English, and legible from a distance of twenty-five feet or more.

(10) Land disposal restrictions. The generator complies with all the applicable requirements under 40 C.F.R. Part 268.

(11) Preparedness and prevention.

(a) Maintenance and operation of facility. The generator must design, construct, maintain, and operate its facility to minimize the possibility of fire, explosion, or any unplanned sudden or nonsudden release of dangerous waste or dangerous waste constituents to air, soil, surface, or groundwater which could threaten public health or the environment. This subsection describes preparations and preventive measures which help avoid or mitigate such situations.

(b) Required equipment. All areas where dangerous waste is either generated or accumulated must be equipped with the following items in (b)(i) through (iv) of this subsection, unless it can be demonstrated to the department that none of the hazards posed by the waste handled at the facility could require a particular kind of equipment specified below or the actual waste generation or accumulation area does not lend itself for safety reasons to have a particular kind of equipment specified below. A medium quantity generator may determine the most appropriate locations to locate equipment necessary to prepare for and respond to emergencies:

(i) An internal communications or alarm system capable of providing immediate emergency instructions (voice or signal) instruction to facility personnel;

(ii) A device, such as a telephone (immediately available at the scene of operation) or a hand-held, two-way radio, capable of summoning emergency assistance from local police departments, fire departments, or state or local emergency response teams;

(iii) Portable fire extinguishers, fire control equipment (including special extinguishing equipment, such as those using foam, inert gas, or dry chemicals), spill control equipment, and decontamination equipment; and

(iv) Water at adequate volume and pressure to supply water hose streams, foam producing equipment, automatic sprinklers, or water spray systems.

(c) Testing and maintenance of equipment. All facility communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, where required, must be tested and maintained as necessary to assure its proper operation in time of emergency.

(d) Access to communications or alarms. Personnel must have immediate access to the signaling devices described in the situations below:

(i) Whenever dangerous waste is being poured, mixed, spread, or otherwise handled, all personnel involved must have immediate access (e.g., direct or unimpeded access) to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee, unless such a device is not required in (b) of this subsection;
If there is ever just one employee on the premises while the facility is operating, the employee must have immediate access to a device, such as a telephone or a hand-held, two-way radio, capable of summoning external emergency assistance, unless such a device is not required in subsection (11)(b) of this section.

(e) Aisle space. The generator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless it can be demonstrated to the department that aisle space is not needed for any of these purposes.

(f) Arrangements with local authorities.

(i) The generator must attempt to make the following arrangements with the local police department, fire department, other emergency response teams, emergency response contractors, equipment suppliers and local hospitals, as appropriate for the type and quantity of waste handled at its facility and the potential need for the services of these organizations, unless the hazards posed by wastes handled at the facility would not require these arrangements:

A. The generator attempting to make arrangements with its local fire department must determine the potential need for the service of the local police department, other emergency response teams, emergency response contractors, equipment suppliers, and local hospitals;

B. Arrangements to familiarize police, fire departments, and emergency response teams with the layout of the facility, properties of dangerous waste handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to, and roads inside the facility and possible evacuation routes;

C. Arrangements to familiarize local hospitals with the properties of dangerous waste handled at the facility and the types of injuries or illnesses which could result from fires, explosions, or releases at the facility;

D. Agreements with state emergency response teams, emergency response contractors, and equipment suppliers; and

E. Where more than one party might respond to an emergency, agreements designating primary emergency authority and agreements with any others to provide support to the primary emergency authority.

(ii) The generator shall maintain records documenting the arrangements with the local fire department as well as any other organization necessary to respond to an emergency. This documentation must include documentation in the operating record that either confirms such arrangements actively exist or, in cases where no arrangements exist, confirms that attempts to make such arrangements were made.

(iii) A facility possessing twenty-four-hour response capabilities may seek a waiver from the authority having jurisdiction (AHJ) over the fire code with the facility's locality as far as needing to make arrangements with the local fire department as well as any other organization necessary to respond to an emergency, provided that the waiver is documented in the generator's operating record.

(12) Emergency procedures and training. The generator must comply with the following conditions for those areas of the generator's facility where dangerous waste is generated and accumulated:

(a) At all times there must be at least one employee either on the premises or on call (i.e., available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures specified in (d) of this subsection. This employee is the emergency coordinator.
(b) The generator must post the following information next to all emergency communication devices (including telephones, two-way radios, etc.) or in each area directly involved in the generation and accumulation of dangerous waste:

(i) The name and telephone number of the emergency coordinator;
(ii) Location of fire extinguishers and spill control material, and, if present, fire alarm; and
(iii) The telephone number of the fire department, unless the facility has a direct alarm.

(c) The generator must ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures relevant to their responsibilities during normal facility operations and emergencies;

(d) The emergency coordinator or their designee must respond to any emergencies that arise. The applicable responses are as follows:

(i) In the event of a fire, call the fire department or attempt to extinguish it using a fire extinguisher;
(ii) In the event of a spill, contain the flow of dangerous waste to the extent possible, and as soon as is practical, clean up the dangerous waste and any contaminated materials or soil;
(iii) In the event of a fire, explosion, or other release which could threaten human health outside the facility or when the generator has knowledge that a spill has reached waters of the state, the generator must immediately notify the department and the National Response Center (using their twenty-four-hour toll free number 1-800-424-8802). The report must include the following information:

(A) The name, address, and EPA/state identification number of the generator;
(B) Date, time, and type of incident (e.g., spill or fire);
(C) Quantity and type of hazardous waste involved in the incident;
(D) Extent of injuries, if any; and
(E) Estimated quantity and disposition of recovered materials, if any.

(13) General inspections. The generator must inspect the facility to prevent malfunctions and deterioration, operator errors, and discharges which may cause or lead to the release of dangerous waste constituents to the environment, or a threat to human health.

(a) The generator must conduct these inspections often enough to identify problems in time to correct them before they harm human health or the environment.

(b) The generator must develop and follow a written schedule for inspecting all monitoring equipment, safety and emergency equipment, security devices, and operating and structural equipment that help prevent, detect, or respond to hazards to the public health or the environment. In addition:

(i) The schedule must be kept at the facility;
(ii) The schedule must identify the types of problems to look for during inspections;
(iii) The generator must keep a written or electronic inspection log or summary, including at least the date and time of the inspection, the printed name and handwritten or electronic signature of the inspector, a notation of the observations made, an account of spills or discharges in accordance with WAC 173-303-145, and the date and nature of any repairs or remedial actions taken. The log or summary must be kept at the facility for at least five years from the date of inspection.
(c) The generator must remedy any problems revealed by the inspection, on a schedule which prevents hazards to the public health and environment. Where a hazard is imminent or has already occurred, remedial action must be taken immediately.

14. Rejected load. A generator who sends a shipment of dangerous waste to a designated facility with the understanding that the designated facility can accept and manage the waste and later receives that shipment back as a rejected load in accordance with the manifest discrepancy provisions of WAC 173-303-370(5) may accumulate the returned load on site in accordance with all of the conditions for exemption, except for subsection (15) of this section. Upon receipt of the returned shipment, the generator must sign:
(a) Item 18c of the manifest, if the transporter returned the shipment using the original manifest; or
(b) Item 20 of the manifest, if the transporter returned the shipment using a new manifest.

15. Episodic event. A generator experiencing an episodic event may accumulate dangerous waste generated from the episodic event in accordance with WAC 173-303-173 in lieu of this section.

NEW SECTION

(1) Applicability. This section is applicable to small quantity generators and medium quantity generators as defined in WAC 173-303-040.
(2) Definitions for this section. The following definitions apply to this section:
(a) Episodic event means an activity or activities, either planned or unplanned, that does not normally occur during generator operations, resulting in an increase in the generation of dangerous wastes that exceeds the calendar month quantity exclusion limits for the generator's usual category.
(b) Planned episodic event means an episodic event that the generator planned and prepared for, including tank cleanouts, short-term project, and removal of excess chemical inventory.
(c) Unplanned episodic event means an episodic event that the generator did not plan or reasonably did not expect to occur, including production process upsets, product recalls, accidental spill, or "acts of nature," such as a tornado, hurricane, earthquake, or flood.
(3) Conditions for a small quantity generator. A small quantity generator may maintain its existing generator category for dangerous waste generated during an episodic event provided that the generator complies with all the following conditions:
(a) Number of events. The small quantity generator is limited to one episodic event per calendar year, unless a petition is granted under subsection (5) of this section.
(b) Notification. The small quantity generator must notify the Department's Hazardous Waste & Toxics Reduction Program's applicable regional office no later than thirty calendar days prior to initiating a planned episodic event using and completing a Washington State Dangerous Waste Site Identification Form, according to the directions on that form. In the event of an unplanned episodic event, the generator must notify the Department's Hazardous Waste & Toxics Reduction Program's appropriate regional office within seventy-two hours of the un-
planned event via email or fax and subsequently submit to the department within thirty days of the notification a completed Washington State Dangerous Waste Site Identification Form, according to the directions on that form. The generator shall include the start date and end date of the episodic event, the reason(s) for the event, types and estimated quantities of dangerous waste expected to be generated as a result of the episodic event, and shall identify a facility contact and emergency coordinator with twenty-four-hour telephone access to discuss the notification submittal or respond to any emergency in compliance with WAC 173-303-172 (12)(a) and 173-303-145(3).

(c) EPA/state identification number. The small quantity generator must have an EPA/state identification number or obtain an identification number using and completing a Washington State Dangerous Waste Site Identification Form.

(d) Annual report. The small quantity generator must submit an annual report in accordance with WAC 173-303-220 covering all dangerous waste generated during the calendar year of the episodic event.

(e) Pollution prevention. Dangerous waste generated from an episodic event is subject to pollution prevention planning and fees as required in chapters 173-307 and 173-305 WAC, respectively.

(f) Accumulation. A small quantity generator is prohibited from accumulating dangerous waste generated from an episodic event on drip pads and in containment buildings. The accumulating of dangerous waste generated from an episodic event shall only occur in containers or tanks and the generator comply with the following:

(i) Containers. The small quantity generator accumulating in containers must mark or label its containers as follows:
   (A) With the date upon which the episodic event began, clearly visible for inspection on each container.
   (B) With the words "Episodic Dangerous Waste" or "Episodic Hazardous Waste" where the label or marking is legible from a distance of twenty-five feet or the lettering size is a minimum of one-half inch in height.
   (C) With an indication of the hazards of the contents (examples include, but are not limited to, the applicable dangerous waste characteristic(s) and criteria of ignitable, corrosive, reactive and toxic). The indication label or marking must be:
      (I) Legible and recognizable from a distance of twenty-five feet or the lettering size is one-half inch in height; and
      (II) Include descriptive word(s) and/or pictogram(s) that identifies the hazards associated with the contents of the containers for the public, emergency response personnel, and employees.

(ii) Tanks. The small quantity generator accumulating episodic dangerous waste in tanks must do the following:
   (A) Clearly mark or label the tanks with the words "Episodic Dangerous Waste" or "Episodic Hazardous Waste" where the label or marking is legible from a distance of twenty-five feet or the lettering size is a minimum of one-half inch in height.
   (B) Clearly mark or label its tanks with an indication of the hazards of the contents (examples include, but are not limited to, the applicable dangerous waste characteristic(s) and criteria of ignitable, corrosive, reactive and toxic). The indication label or marking must be:
      (I) Legible and recognizable from a distance of twenty-five feet or the lettering size is a minimum of one-half inch in height; and
(II) Include descriptive word(s) and/or pictogram(s) that identifies the hazard associated with the contents of the tank for the public, emergency response personnel, and employees.

(C) Use inventory logs, monitoring equipment or other records to identify the date upon which each episodic event begins.

(D) Keep inventory logs or records with the above information on site and readily available for inspection upon request.

(iii) Dangerous waste must be managed in a manner that minimizes the possibility of a fire, explosion, or release of dangerous waste or hazardous substance or dangerous waste constituent to the air and environment.

(iv) Containers must be in good condition and compatible with the dangerous waste being accumulated therein.

(v) Containers must be kept closed except to add or remove waste.

(vi) Tanks must be in good condition and compatible with the dangerous waste accumulated therein.

(vii) Tanks must have procedures in place to prevent the overflow (e.g., be equipped with a means to stop inflow with systems such as a waste feed cutoff system or bypass system to a standby tank when dangerous waste is continuously fed into the tank).

(viii) Inspections. Tanks must be inspected at least once each operating day to ensure all applicable discharge control equipment, such as waste feed cutoff systems, bypass systems, and drainage systems are in good working order and to ensure the tank is operated according to its design by reviewing the data gathered from monitoring equipment such as pressure and temperature gauges from the inspection.

(g) Manifest. The small quantity generator must comply with the hazardous waste manifest provision of WAC 173-303-180 when it sends its dangerous waste generated from the episodic event off site to a designated facility as defined in WAC 173-303-040.

(h) Treatment. The small quantity generator is prohibited from treating dangerous waste generated from an episodic event.

(i) Off-site shipments. The small quantity generator has up to sixty calendar days from the start of the episodic event to manifest and send its dangerous waste generated from the episodic event to a designated facility as defined in WAC 173-303-040.

(j) Recordkeeping. Small quantity generators must maintain the following records for five years from the end date of the episodic event:

(i) Beginning and end dates of the episodic event;

(ii) A description of the episodic event;

(iii) A description of the types and quantities of dangerous wastes generated during the event;

(iv) A description of how the dangerous waste was managed as well as the name of the designated facility, as defined in WAC 173-303-040, that received the dangerous waste;

(v) Name(s) of dangerous waste transporters; and

(vi) An approval letter from the department if the generator petitioned to conduct one additional episodic event per calendar year.

(4) Conditions for medium quantity generators. A medium quantity generator may maintain its existing generator category for dangerous waste generated during an episodic event provided that the generator complies with all the following conditions:

(a) Number of events. The medium quantity generator is limited to one episodic event per calendar year, unless a petition is granted under subsection (5) of this section.
(b) Notification. The medium quantity generator must notify the Department's Hazardous Waste & Toxics Reduction Program's applicable regional office no later than thirty calendar days prior to initiating a planned episodic event using and completing a Washington State Dangerous Waste Site Identification Form, according to the directions on that form. In the event of an unplanned episodic event, the generator must notify the Department's Hazardous Waste & Toxics Reduction Program's appropriate regional office within seventy-two hours of the unplanned event via email or fax and subsequently submit to the department within thirty days of the notification a completed Washington State Dangerous Waste Site Identification Form, according to the directions on that form. The generator shall include the start date and end date of the episodic event, the reason(s) for the event, types and estimated quantities of dangerous waste expected to be generated as a result of the episodic event, and shall identify a facility contact and emergency coordinator with twenty-four-hour telephone access to discuss the notification submittal or respond to any emergency in compliance with WAC 173-303-172 (12)(a) and 173-303-145(3).

(c) EPA/state identification number. The medium quantity generator must have an EPA/state identification number or obtain an identification number using and completing a Washington State Dangerous Waste Site Identification Form.

(d) Annual report. The medium quantity generator must submit an annual report in accordance with WAC 173-303-220 covering all dangerous waste generated during the calendar year of the episodic event.

(e) Pollution prevention. Dangerous waste generated from an episodic event is subject to pollution prevention planning and fees as required in chapters 173-307 and 173-305 WAC, respectively.

(f) Accumulation. A medium quantity generator is prohibited from accumulating dangerous waste generated from an episodic event on drip pads and in containment buildings. The accumulating of dangerous waste generated from an episodic event shall only occur in containers or tanks and the generator comply with the following:

(i) Containers. The medium quantity generator accumulating episodic dangerous waste in containers must meet the standards in WAC 173-303-172(5) and must mark or label its containers as follows:

(A) With the date upon which the episodic event began, clearly visible for inspection on each container.

(B) With the words "Episodic Dangerous Waste" or "Episodic Hazardous Waste" where the label or marking is legible from a distance of twenty-five feet or the lettering size is a minimum of one-half inch in height.

(C) With an indication of the hazards of the contents (examples include, but are not limited to, the applicable dangerous waste characteristic(s) and criteria of ignitable, corrosive, reactive and toxic). The indication label or marking must be:

(I) Legible and recognizable from a distance of twenty-five feet or the lettering size is a minimum of one-half inch in height; and

(II) Include descriptive word(s) and/or pictogram(s) that identifies the hazards associated with the contents of the containers for the public, emergency response personnel, and employees.

(ii) Tanks. The medium quantity generator accumulating episodic dangerous waste in tanks must meet the standards in WAC 173-303-172(6) and must do the following:

(A) Clearly mark or label its tanks with the words "Episodic Dangerous Waste" or "Episodic Hazardous Waste" where the label or marking
is legible from a distance of twenty-five feet or the lettering size is a minimum of one-half inch in height.

(B) Clearly mark or label its tanks with an indication of the hazards of the contents (examples include, but are not limited to, the applicable dangerous waste characteristic(s) and criteria of ignitable, corrosive, reactive and toxic). The indication label or marking must be:

(I) Legible and recognizable from a distance of twenty-five feet or the lettering size is a minimum of one-half inch in height; and

(II) Include descriptive word(s) and/or pictogram(s) that identifies the hazards associated with the contents of the tanks for the public, emergency response personnel, and employees.

(C) Use inventory logs, monitoring equipment or other records to identify the date upon which each period of accumulation begins and ends.

(D) Keep inventory logs or records with the above information on site and readily available for inspection upon request.

(g) The medium quantity generator must treat dangerous waste generated from an episodic event on site or manifest and ship such dangerous waste off site to a designated facility (as defined by WAC 173-303-040) within sixty calendar days from the start of the episodic event.

(h) Recordkeeping. The medium quantity generator must maintain the following records for five years from the end date of the episodic event:

(i) Beginning and end dates of the episodic event;

(ii) A description of the episodic event;

(iii) A description of the types and quantities of dangerous wastes generated during the event;

(iv) A description of how the dangerous waste was managed as well as the name of the designated facility, as defined in WAC 173-303-040, that received the dangerous waste;

(v) Name(s) of dangerous waste transporters; and

(vi) An approval letter from the department if the generator petitioned to conduct one additional episodic event per calendar year.

(5) Petition to manage one additional episodic event per calendar year.

(a) A generator may petition the department for a second episodic event in a calendar year without impacting its generator category under the following conditions:

(i) If a small quantity generator or a medium quantity generator has already held a planned episodic event in a calendar year, the generator may petition the department for an additional unplanned episodic event in that calendar year within seventy-two hours of the unplanned event.

(ii) If a small quantity generator or medium quantity generator has already held an unplanned episodic event in a calendar year, the generator may petition the department for an additional planned episodic event in that calendar year.

(b) The petition must include the following:

(i) The reason(s) why an additional episodic event is needed and the nature of the episodic event;

(ii) The estimated amount and type(s) of dangerous waste to be managed from the event;

(iii) How the dangerous waste is to be managed;
(iv) The estimated length of time needed to complete management of the dangerous waste generated from the episodic event not to exceed sixty days; and

(v) Information regarding the previous episodic event managed by the generator, including the nature of the event, whether it was a planned or unplanned event, and how the generator complied with the conditions.

(c) The petition must be sent to the Department's Hazardous Waste & Toxics Reduction Program's appropriate regional office for review and approval.

NEW SECTION

WAC 173-303-174 Satellite accumulation area regulations for medium quantity generators and large quantity generators. (1) A generator may accumulate as much as fifty-five gallons of dangerous waste or either one quart of liquid acutely hazardous waste or 2.2 lbs. of solid acutely hazardous waste (as defined in WAC 173-303-040) in containers at or near any point of generation where waste initially accumulates (defined as a satellite accumulation area in WAC 173-303-040). The satellite accumulation area must be under the control of the operator of the process generating the waste or secured at all times to prevent improper additions of wastes to a satellite container. A generator may accumulate waste without a permit, or without complying with WAC 173-303-400, 173-303-600, 173-303-692, and 173-303-800, provided that all the conditions for exemption in this section are met. A generator may comply with the conditions for exemption in this section instead of complying with the conditions for exemption in WAC 173-303-172 and 173-303-200, except as required by (h) and (i) of this subsection. The conditions for exemption for satellite accumulation are:

(a) Condition of containers. If a container holding dangerous waste is not in good condition (e.g., severe corroding or rusting or flaking or scaling, and/or apparent structural defects) or if it begins to leak, the generator must transfer the dangerous waste to a container that is in good condition and does not leak, or immediately transfer and manage the waste in a central accumulation area operated in compliance with WAC 173-303-172 or 173-303-200, as applicable. In addition, the owner or operator must address leaks and spills in accordance with the applicable provisions of WAC 173-303-145 and 173-303-360.

(b) Compatibility of waste with containers. The generator must use a container made of or lined with materials which will not react with, and are otherwise compatible with, the dangerous waste to be stored, so that the ability of the container to contain the waste is not impaired.

(c) Management of containers.

(i) A container holding dangerous waste must be closed at all times, except:

(A) When it is necessary to add or remove waste; or

(B) When temporary venting of a container is necessary, such as:

(I) For the proper operation of equipment; or

(II) To prevent dangerous situations, such as build-up of extreme pressure.
(ii) A container holding dangerous waste must not be opened, handled, or stored in a manner which may rupture the container or cause it to leak.

(d) Special requirements for ignitable or reactive waste. Containers holding reactive waste exhibiting a characteristic specified in WAC 173-303-090 (7)(a)(vi) through (viii) must be stored in a manner equivalent to the separation distances for storage of explosives in the International Fire Code, 2015 edition, or the version adopted by the local fire district.

(e) Special requirements for incompatible wastes.

(i) Incompatible wastes, or incompatible wastes and materials must not be placed in the same container, unless WAC 173-303-395 (1)(b) is complied with.

(ii) Dangerous waste must not be placed in an unwashed container that previously held an incompatible waste or material.

(iii) A storage container holding a dangerous waste that is incompatible with any waste or other materials stored nearby in other containers, piles, open tanks, or surface impoundments must be separated from the other materials or protected from them by means of a dike, berm, wall, or other device. Containment systems for incompatible wastes must be separate.

(f) Container labeling or marking. A generator must clearly label or mark each container of dangerous waste with the following:

(i) The words "Dangerous Waste" or "Hazardous Waste" where the label or marking is legible from a distance of twenty-five feet or the lettering size is a minimum of one-half inch in height.

(ii) An indication of the hazards of the contents (examples include, but are not limited to, the applicable dangerous waste characteristic(s) and criteria of ignitable, corrosive, reactive and toxic and the applicable hazard(s) identified for listed dangerous wastes). The label or marking must be:

(A) Legible and/or recognizable from a distance of twenty-five feet or the lettering size is a minimum of one-half inch in height; and

(B) Include descriptive word(s) and/or pictogram(s) that identifies the hazards associated with the contents of the containers for the public, emergency response personnel, and employees.

(g) Accumulation limits. When the accumulation limits listed in this subsection are met:

(i) The container(s) must be marked immediately with the accumulation start date; and

(ii) Moved within three consecutive calendar days to a permitted on-site designated storage area or an on-site central accumulation area or to a permitted off-site designated facility; and

(iii) During the three consecutive calendar day period the generator must continue to comply with all the conditions for exemption for satellite accumulation in this section.

(h) All satellite accumulation areas operated by medium quantity generators must meet the preparedness and prevention regulations and the emergency procedures in WAC 173-303-172.

(i) All satellite accumulation areas operated by large quantity generators must meet the preparedness, prevention and contingency regulations and emergency procedures in WAC 173-303-201.

(2) On a case-by-case basis the department may require the satellite accumulation area to be managed in accordance with all or some of the requirements under WAC 173-303-172 or 173-303-200 and secondary containment requirements of WAC 173-303-630(7), if the nature of the...
wastes being accumulated, a history of spills or releases from accumulated containers, or other factors are determined by the department to be a threat or potential threat to human health or the environment.

AMENDATORY SECTION (Amending WSR 15-01-123, filed 12/18/14, effective 1/18/15)

WAC 173-303-180 Manifest. A generator who transports, or offers for transport a dangerous waste for off-site treatment, storage, or disposal, or a treatment, storage, and disposal facility who offers for transport a rejected dangerous waste load, must follow all applicable procedures described in this section.

(1) Form and contents of dangerous waste manifests. 40 C.F.R. Part 262 Appendix - Uniform Hazardous Waste Manifest and Instructions (EPA Forms 8700-22 and 8700-22A and Their Instructions) is incorporated by reference. The manifest must be EPA Form 8700-22 and, if necessary, EPA Form 8700-22A. The manifest must be prepared in accordance with the instructions for these forms, as described in the uniform manifest Appendix of 40 C.F.R. Part 262.

(a) A generator must designate on the manifest one facility that is permitted to handle the waste described on the manifest.

(b) A generator may also designate on the manifest one alternate facility that is permitted to handle (his or her) their waste in the event an emergency prevents delivery of the waste to a primary designated facility.

(c) If the transporter is unable to deliver the dangerous waste to the designated facility or the alternate facility, the generator must either designate another facility or instruct the transporter to return the waste.

(2) The manifest must consist of enough copies to provide the generator, each transporter, and the designated facility owner/operator with a copy for their records, and another copy to be returned to the generator.

(3) Manifest procedures.

(a) The generator must:

(i) Sign and date the manifest certification by hand;

(ii) Obtain the handwritten signature of the initial transporter and date of acceptance on the manifest; and

(iii) Retain one copy in accordance with WAC 173-303-210, Generator recordkeeping.

(b) The generator must give the remaining manifest copies to the transporter.

(c) For shipments of dangerous waste within the United States solely by water (bulk shipments only), the generator must send three copies of the manifest dated and signed in accordance with this section to the owner or operator of the designated facility or the last water (bulk shipment) transporter to handle the waste in the United States if exported by water. Copies of the manifest are not required for each transporter.

(d) For rail shipments of dangerous waste within the United States which originate at the site of generation, the generator must send at least three copies of the manifest dated and signed in accordance with this section to:

(i) The next nonrail transporter, if any; or
(ii) The designated facility if transported solely by rail; or
(iii) The last rail transporter to handle the waste in the United States if exported by rail.

(e) For shipments of federally regulated hazardous waste to a designated facility in an authorized state which has not yet obtained authorization to regulate that particular waste as hazardous, the generator must assure that the designated facility agrees to sign and return the manifest to the generator, and that any out-of-state transporter signs and forwards the manifest to the designated facility.

( f ) For rejected shipments of dangerous waste or container residues contained in nonempty containers that are returned to the generator by the designated facility (following the procedures of WAC 173-303-370 (5)(f)), the generator must:

(i) Sign either:
   (A) Item 20 of the new manifest if a new manifest is used for the returned shipment; or
   (B) Item 18c of the original manifest if the original manifest is used for the returned shipment.

(ii) Provide the transporter a copy of the manifest;

(iii) Within thirty days of delivery of the rejected shipment or container residues contained in nonempty containers, send a copy of the manifest to the designated facility that returned the shipment to the generator; and

(iv) Retain at the generator's site a copy of each manifest for at least three years from the date of delivery.

(4) Special requirements for shipments to the Washington EHW facility at Hanford.

(a) All generators planning to ship dangerous waste to the EHW facility at Hanford must notify the facility in writing and by sending a copy of the prepared manifest prior to shipment.

(b) The generator must not ship any dangerous waste without prior approval from the EHW facility. The state operator may exempt classes of waste from the requirements of WAC 173-303-180 (4)(a) and (b) where small quantities or multiple shipments of a previously approved waste are involved, or there exists an emergency and potential threat to public health and safety.

(5) The requirements of this section and WAC 173-303-190(2) do not apply to the transport of dangerous wastes on a public or private right of way within or along the border of contiguous property under the control of the same person, even if such contiguous property is divided by a public or private right of way: Provided, That ecology has approved an alternative paper tracking system that serves the purpose of a manifest. Notwithstanding WAC 173-303-240(2), the generator or transporter must comply with the requirements for transporters set forth in WAC 173-303-270 and 173-303-145 in the event of a discharge of dangerous waste on a public or private right of way.

(6) Special instructions for state-only dangerous waste that designates only by the criteria under WAC 173-303-100 and is not regulated as a hazardous waste under 40 C.F.R. Part 261 or as a hazardous material under the 49 C.F.R. hazardous material regulations. For purposes of completing the uniform hazardous waste manifest, Item 9b, and Item 28 if continuation sheet 8700-22A is used, or to describe a state-only dangerous waste on a shipping paper, the shipping description must include the following in sequence with no additional information interspersed:

(a) Material Not Regulated by DOT;
(b) Washington State Dangerous Waste Only followed by the appropriate criteria designation of the waste that is either toxic, persistent, solid corrosive or a combination of these entered in parentheses;

(c) Shipping description examples: Material Not Regulated by DOT (Washington State Dangerous Waste Only, Toxic); Material Not Regulated by DOT (Washington State Dangerous Waste Only, Toxic, Persistent); Material Not Regulated by DOT (Washington State Dangerous Waste Only, Solid Corrosive).

7) Manifest tracking numbers, manifest printing, and obtaining manifests.

(a) 40 C.F.R. 262.21 (a) through (f) and (h) through (m) is incorporated by reference. EPA requirements for printing manifests for use or distribution are included in this section.

(b) A generator may use manifests printed by any source so long as the source of the printed form has received approval from EPA to print the manifest under paragraphs (c) and (e) of 40 C.F.R. 262.21. A registered source may be a:

(i) State agency;
(ii) Commercial printer;
(iii) Dangerous waste generator, transporter or TSDF; or
(iv) Dangerous waste broker or other preparer who prepares or arranges shipments of dangerous waste for transportation.

(c) A generator must determine whether the generator state or the consignment state for a shipment regulates any additional wastes (beyond those regulated federally) as hazardous wastes under these states' authorized programs. Generators also must determine whether the consignment state or generator state requires the generator to submit any copies of the manifest to these states. In cases where the generator must supply copies to either the generator's state or the consignment state, the generator is responsible for supplying legible photocopies of the manifest to these states.

8) Waste minimization certification. A generator who initiates a shipment of dangerous waste must certify to one of the following statements in Item 15 of the uniform hazardous waste manifest:

(a) "I am a large quantity generator. I have a program in place to reduce the volume and toxicity of waste generated to the degree I have determined to be economically practicable and I have selected the practicable method of treatment, storage, or disposal currently available to me which minimizes the present and future threat to human health and the environment"; or

(b) "I am a medium quantity generator. I have made a good faith effort to minimize my waste generation and select the best waste management method that is available to me and that I can afford." Note that a Washington state medium quantity generator regulated under WAC (173-303-172) is the type of generator referred to where the manifest states "(b) If I am a small quantity generator", due to the different term used by EPA.

9) Use of electronic manifest. In lieu of using the manifest form specified in subsection (1) of this section, a person may prepare and use an electronic manifest, provided that the person:

(a) Complies with the requirements of 40 C.F.R. Part 3.10 for the reporting of electronic documents to EPA; and

(b) Complies with the requirements in subsections (10) and (11) of this section.

(10) Legal equivalence to paper manifests.
(a) Electronic manifests that are obtained, completed, and transmitted in accordance with subsection (9) of this section and used in accordance with this section are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy for all purposes any requirement in this section to obtain, complete, sign, provide, use or retain a manifest.

(i) Any requirement in this section to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of subsection (11) of this section.

(ii) Any requirement in this section to give, provide, send, forward, or return to another person a copy of the manifest is satisfied when an electronic manifest is transmitted to the other person by submission to the e-Manifest system.

(iii) Any requirement in this section for a generator to keep or retain a copy of each manifest is satisfied by retention of a signed electronic manifest in the generator's account on the national e-Manifest system, provided that such copies are readily available for viewing and production upon request.

(iv) A generator may not be held liable for the inability to produce an electronic manifest for inspection under this section if the generator can demonstrate that the inability to produce the electronic manifest is due exclusively to a technical difficulty with the electronic manifest system for which the generator bears no responsibility.

(b) A generator may participate in the electronic manifest system either by accessing the electronic manifest system from its own electronic equipment, or by accessing the electronic manifest system from portable equipment brought to the generator's site by the transporter who accepts the dangerous waste shipment from the generator for off-site transportation.

(c) Restriction on use of electronic manifests. A generator may prepare an electronic manifest for the tracking of dangerous waste shipments involving any dangerous waste only if it is known at the time the manifest is originated that all waste handlers named on the manifest participate in the electronic manifest system.

(d) Requirement for one printed copy. To the extent the hazardous materials regulation on shipping papers for carriage by public highway requires shippers of hazardous material to supply a paper document for compliance with 49 C.F.R. Part 177.817, a generator originating an electronic manifest must also provide the initial transporter with one printed copy of the electronic manifest. In addition, the one printed copy of the electronic manifest must provide the information required in subsection (6) of this section for state-only dangerous waste that designates only by the criteria under WAC 173-303-100 and as state listed WPCB and WSC2.

(e) Special procedures when electronic manifest is unavailable. If a generator has prepared an electronic manifest for a dangerous waste shipment, but the electronic manifest system becomes unavailable for any reason prior to the time that the initial transporter has signed electronically to acknowledge the receipt of the dangerous waste from the generator, then the generator must obtain and complete a paper manifest (EPA form 8700-22) and if necessary, a continuation sheet (EPA form 8700-22A) in accordance with the manifest instructions and comply with subsections (1) through (8) of this section from this point forward.
(f) Special procedures for electronic signature methods undergoing tests. If a generator has prepared an electronic manifest for a dangerous waste shipment, and signs this manifest electronically using an electronic signature method which is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of this signature method, then the generator shall also sign with an ink signature the generator/offeror certification on the printed copy of the manifest provided under (d) of this subsection.

(g) Imposition of user fee. A generator who is a user of the electronic manifest may be assessed a user fee by EPA for the origination of each electronic manifest. EPA shall maintain and update from time-to-time the current schedule of electronic manifest user fees, which shall be determined based on current and projected system costs and level of use of the electronic manifest system. The current schedule of electronic manifest user fees will be published by EPA as an appendix to 40 C.F.R. Part 262.

(11) Electronic manifest signatures. Electronic signature methods for the e-Manifest system shall:

(a) Be a legally valid and enforceable signature applicable under state, EPA and other federal requirements pertaining to electronic signatures; and

(b) Be a method that is designed and implemented in a manner that EPA considers to be as cost-effective and practical as possible for the users of the manifest.

AMENDATORY SECTION (Amending WSR 15-01-123, filed 12/18/14, effective 1/18/15)

WAC 173-303-190 Preparing dangerous waste for transport. The generator must fulfill the following requirements before transporting off-site or offering for off-site transport any dangerous waste.

(1) Packaging. The generator must package all dangerous waste for transport in accordance with United States DOT regulations on packaging, 49 C.F.R. Parts 173, 178, and 179.

(2) Labeling. The generator must label each package in accordance with United States DOT regulations, 49 C.F.R. Part 172.

(3) Marking. The generator must:

(a) Mark each package of dangerous waste in accordance with the applicable United States DOT regulations on hazardous materials under 49 C.F.R. Part 172; and

(b) Mark each container of one hundred nineteen gallons or less of dangerous waste used in such transportation with the following, or equivalent words and information in accordance with 49 C.F.R. 172.304:

HAZARDOUS WASTE - State and federal law prohibits improper disposal. If found, contact the nearest police or public safety authority, and the Washington state department of ecology or the United States Environmental Protection Agency.

Generator’s Name and Address

..............................................................
..............................................................
..............................................................
(4) Placarding. The generator must placard, or offer the initial transporter the appropriate placards according to United States DOT regulations for hazardous materials under 49 C.F.R. Part 172, Subpart F.

(5) State-only dangerous waste that is not regulated as a hazardous waste under 40 C.F.R. Part 261 or as a hazardous material under 49 C.F.R. must fulfill the following requirements before transport:
   (a) Package in a nonleaking, nonsievable container or in a package that is equivalent to the manufacturing and testing specifications for packagings and containers of 49 C.F.R. Parts 173, 178 and 179.
   (b) Mark each package containing one thousand gallons or less with the following:
      (i) Washington State Dangerous Waste—State law prohibits improper disposal. If found, contact the nearest police or public safety authority, and the Washington State Department of Ecology. The generator's name and address and manifest number must also be included; and
      (ii) The state shipping description as described in WAC 173-303-180(6).
   (c) Use of any other markings for a state-only dangerous waste is prohibited.

(6) State-only dangerous waste that is also regulated as a hazardous material under 49 C.F.R. must be packaged, labeled and marked in accordance with WAC 173-303-190 (1), (2), (3) and (5)(b)(i).

(7) A generator may use a nationally recognized electronic system, such as bar coding, to identify the dangerous waste number(s) as required in subsections (3)(b) and (8) of this section.

(8) Lab packs that will be incinerated in compliance with 40 C.F.R. Part 268.42(c) as incorporated by reference in WAC 173-303-140(2) are not required to be marked with dangerous waste number(s), except D004, D005, D006, D007, D008, D010, and D011, where applicable.

(9) Liquids in landfills prohibition. The placement of bulk or noncontainerized liquid dangerous waste or dangerous waste containing free liquids (whether or not sorbents have been added) in any landfill is prohibited. Prior to disposal liquids must meet additional requirements of WAC 173-303-140 (4)(b).

AMENDATORY SECTION (Amending WSR 15-01-123, filed 12/18/14, effective 1/18/15)

WAC 173-303-200 ((Accumulating)) Conditions for exemption for a large quantity generator that accumulates dangerous waste ((on-site)).
   ((4)(A generator, not to include transporters as referenced in WAC 173-303-240(3), may accumulate dangerous waste on-site without a permit for ninety days or less after the date of generation, provided that:
      (a) All such waste is shipped off-site to a designated facility or placed in an on-site facility which is permitted by the department
under WAC 173-303-800 through 173-303-845 or recycled or treated on-site in ninety days or less. The department may, on a case-by-case basis, grant a maximum thirty day extension to this ninety day period if dangerous wastes must remain on-site due to unforeseen, temporary and uncontrollable circumstances. A generator who accumulates dangerous waste for more than ninety days is an operator of a storage facility and is subject to the facility requirements of this chapter and the permit requirements of this chapter as a storage facility unless he has been granted an extension to the ninety day period allowed pursuant to this subsection.

(b) The waste is placed:

(i) In containers and the generator complies with WAC 173-303-630 (2), (3), (4), (5), (6), (8), (9), (10), and 40 C.F.R. Part 265 Sub-parts AA, BB, and CC incorporated by reference at WAC 173-303-400 (3)(a). For container accumulation (including satellite areas as described in subsection (2) of this section), the department may require that the accumulation area include secondary containment in accordance with WAC 173-303-630(7), if the department determines that there is a potential threat to public health or the environment due to the nature of the wastes being accumulated, or due to a history of spills or releases from accumulated containers. In addition, any new container accumulation areas (but not including new satellite areas, unless required by the department) constructed or installed after September 30, 1986, must comply with the provisions of WAC 173-303-630(7); and/or

(ii) In tanks and the generator complies with 40 C.F.R. Part 265 Subparts AA, BB, and CC incorporated by reference at WAC 173-303-400 (3)(a) and 173-303-640 (2) through (10), except WAC 173-303-640 (8)(c) and the second sentence of WAC 173-303-640 (9)(a). (Note: A generator, unless otherwise required to do so, does not have to prepare a closure plan, a cost estimate for closure, or provide financial responsibility for his tank system to satisfy the requirements of this section.) Such a generator is exempt from the requirements of WAC 173-303-620 and 173-303-610, except for WAC 173-303-610 (2) and (5); and/or

(iii) On drip pads and the generator complies with WAC 173-303-675 and maintains the following records at the facility:

(A) A description of procedures that will be followed to ensure that all wastes are removed from the drip pad and associated collection system at least once every 90 days; and

(B) Documentation of each waste removal, including the quantity of waste removed from the drip pad and the sump or collection system and the date and time of removal; and/or

(iv) In containment buildings and the generator complies with 40 C.F.R. Part 265 Subpart DD, which is incorporated by reference, and the generator has placed its independent qualified registered professional engineer certification that the building complies with the design standards specified in 40 C.F.R. 265.1101 in the facility's operating record no later than sixty days after the date of initial operation of the unit. Where subpart G and H are referenced in 40 C.F.R. 265.1102, replace them with WAC 173-303-610 and 173-303-620. After February 18, 1993, PE certification will be required prior to operation of the unit. The owner or operator must maintain the following records at the facility:

(A) A written description of procedures to ensure that each waste volume remains in the unit for no more than ninety days, a written description of the waste generation and management practices for the facility showing that they are consistent with respecting the ninety-day limit, and documentation that the procedures are complied with; or
(B) Documentation that the unit is emptied at least once every ninety days.

(c) The date upon which each period of accumulation begins is marked and clearly visible for inspection on each container.

(d) While being accumulated on site, each container and tank is labeled or marked clearly with the words "dangerous waste" or "hazardous waste." Each container or tank must also be marked with a label or sign which identifies the major risk(s) associated with the waste in the container or tank for employees, emergency response personnel and the public (note: If there is already a system in use that performs this function in accordance with local, state, or federal regulations, then such system will be adequate). The department may also require that a sign be posted at each entrance to the accumulation area, bearing the legend, "danger—unauthorized personnel keep out," or an equivalent legend, written in English, and legible from a distance of twenty-five feet or more; and

(e) The generator complies with the requirements for facility operators contained in:

(i) WAC 173-303-330 through 173-303-360 (personnel training, preparedness and prevention, contingency plan and emergency procedures, and emergencies) except for WAC 173-303-335 (construction quality assurance program) and WAC 173-303-355 (SARA Title III coordination); and

(ii) WAC 173-303-320 (1), (2)(a), (b), (d), and (3) (general inspection); and

(f) The generator complies with all applicable requirements under 40 C.F.R. Part 268.

(g) In addition, such a generator is exempt from all the requirements in WAC 173-303-610 and 173-303-620, except for WAC 173-303-610 (2) and (5).

(2) Satellite accumulation.

(a) A generator may accumulate as much as fifty-five gallons of dangerous waste or one quart of acutely hazardous waste (as defined in WAC 173-303-040) in containers at or near any point of generation where waste initially accumulates (defined as a satellite accumulation area in WAC 173-303-040). The satellite area must be under the control of the operator of the process generating the waste or secured at all times to prevent improper additions of wastes to a satellite container. Satellite accumulation is allowed without a permit provided the generator:

(i) Complies with WAC 173-303-630 (2), (4), (5) (a) and (b), (8)(a), and (9) (a) and (b); and

(ii) Complies with subsection (1)(d) of this section.

(b) When fifty-five gallons of dangerous waste or one quart of acutely hazardous waste (as defined in WAC 173-303-040) is accumulated, the container(s) must be marked immediately with the accumulation date and moved within three days to a designated storage or accumulation area.

(c) On a case-by-case basis the department may require the satellite area to be managed in accordance with all or some of the requirements under subsection (1) of this section, if the nature of the wastes being accumulated, a history of spills or releases from accumulated containers, or other factors are determined by the department to be a threat or potential threat to human health or the environment.

(3) For the purposes of this section, the ninety-day accumulation period begins on the date that:
(a) The generator first generates a dangerous waste; or
(b) The quantity (or aggregated quantity) of dangerous waste being accumulated by a small quantity generator first exceeds the accumulation limit for such waste (or wastes); or
(c) Fifty-five gallons of dangerous waste or one quart of acutely hazardous waste (as defined in WAC 173-303-040) is accumulated in a satellite accumulation area.

(4)(a) A generator who generates 2200 pounds or greater of dangerous waste per calendar month who also generates wastewater treatment sludges from electroplating operations that meet the listing description for the dangerous waste code F006, may accumulate F006 waste on-site for more than ninety days, but not more than one hundred eighty days without a permit or without having interim status provided that:

(i) The generator has implemented pollution prevention practices that reduce the amount of any dangerous substances, pollutants or contaminants entering F006 or otherwise released to the environment prior to its recycling;
(ii) The F006 waste is legitimately recycled through metals recovery;
(iii) No more than 44,000 pounds of F006 waste is accumulated on-site at any one time; and
(iv) The F006 waste is managed in accordance with the following:
   (A) The F006 waste is placed:
      (I) In containers and the generator complies with the applicable requirements of WAC 173-303-630 (2), (3), (4), (5), (6), (8), (9), (10), and 40 C.F.R. Part 265 Subparts AA, BB, and CC incorporated by reference at WAC 173-303-400 (3)(a); and/or
      (II) In tanks and the generator complies with the applicable requirements of 40 C.F.R. Part 265 Subparts AA, BB, and CC incorporated by reference at WAC 173-303-400 (3)(a) and 173-303-640 (2) through (10), except WAC 173-303-640 (8)(c) and the second sentence of WAC 173-303-640 (9)(a); and/or
   (B) In containment buildings and the generator complies with subpart DD of 40 C.F.R. Part 265 which is incorporated by reference at WAC 173-303-400(3), and has placed its independent qualified registered professional engineer certification that the building complies with the design standards specified in 40 C.F.R. 265.1101 in the facility's operating record prior to operation of the unit. The owner or operator must maintain the following records at the facility:
      • A written description of procedures to ensure that the F006 waste remains in the unit for no more than one hundred eighty days, a written description of the waste generation and management practices for the facility showing that they are consistent with the one hundred eighty-day limit, and documentation that the generator is complying with the procedures; or
      • Documentation that the unit is emptied at least once every one hundred eighty days.
   (B) In addition, such a generator is exempt from all the requirements in subparts C and H of 40 C.F.R. Part 265, except for 265.111 and 265.114 which are incorporated by reference at WAC 173-303-400(3).
   (C) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;
   (D) While being accumulated on-site, each container and tank is labeled or marked clearly with the words, "Dangerous Waste"; and
   (E) The generator complies with the requirements for owners or operators in WAC 173-303-330, 173-303-340, and 173-303-350, and with
A generator who generates 2200 pounds or greater of dangerous waste per calendar month who also generates wastewater treatment sludges from electroplating operations that meet the listing description for the dangerous waste code F006, and who must transport this waste, or offer this waste for transportation, over a distance of 200 miles or more for off-site metals recovery, may accumulate F006 waste on-site for more than ninety days, but not more than two hundred seventy days without a permit or without having interim status if the generator complies with the requirements of (a)(i) through (iv) of this subsection.

A generator accumulating F006 in accordance with (a) and (b) of this subsection who accumulates F006 waste on-site for more than one hundred eighty days (or for more than two hundred seventy days if the generator must transport this waste, or offer this waste for transportation, over a distance of two hundred miles or more), or who accumulates more than 44,000 pounds of F006 waste on-site is an operator of a storage facility and is subject to the facility and permit requirements of this chapter unless the generator has been granted an extension to the one hundred eighty day (or two hundred seventy day if applicable) period or an exception to the 44,000 pound accumulation limit. Such extensions and exceptions may be granted by the department if F006 waste must remain on-site for longer than one hundred eighty days (or two hundred seventy days if applicable) or if more than 44,000 pounds of F006 waste must remain on-site due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to thirty days or an exception to the accumulation limit may be granted at the discretion of the department on a case-by-case basis.

A generator who sends a shipment of dangerous waste to a designated facility with the understanding that the designated facility can accept and manage the waste and later receives that shipment back as a rejected load or residue in accordance with the manifest discrepancy provisions of WAC 173-303-370 may accumulate the returned waste on-site in accordance with subsection (1) of this section or WAC 173-303-201, depending on the amount of dangerous waste on-site in that calendar month. Upon receipt of the returned shipment, the generator must:

(a) Sign Item 18c of the manifest, if the transporter returned the shipment using the original manifest; or

(b) Sign Item 20 of the manifest, if the transporter returned the shipment using a new manifest.)

Large quantity generators, not to include transporters as referenced in WAC 173-303-240(3), may accumulate dangerous waste on-site without a permit or interim status, and without complying with the requirements of WAC 173-303-600 provided that all of the following conditions for exemption listed in this section are met.

1) Off-site shipments. All dangerous waste is shipped off site to a designated facility or placed in an on-site facility which is permitted by the department under WAC 173-303-800 through 173-303-845 or recycled or treated on site in ninety days or less. A generator who accumulates dangerous waste for more than ninety days is an operator of a storage facility and is subject to the facility requirements of this chapter and the permit requirements of this chapter as a storage facility unless they have been granted an extension to the ninety-day period allowed pursuant to subsection (2) of this section;

2) Accumulation time limit.
(a) The generator accumulates dangerous waste on site for no more than ninety days unless:
   (i) The department has granted a maximum thirty-day extension to this ninety-day period. The department may, on a case-by-case basis, grant a maximum thirty-day extension to this ninety-day period if dangerous waste must remain on site due to unforeseen, temporary and uncontrollable circumstances; or
   (ii) The F006 accumulation conditions for exemption in subsection (13) of this section are met.

(b) For the purposes of this section, the ninety-day accumulation period begins on the date that:
   (i) The generator first generates a dangerous waste; or
   (ii) The quantity (or aggregated quantity) of dangerous waste being accumulated by a small quantity generator first exceeds the accumulation limit for such waste (or wastes); or
   (iii) The generator exceeds its satellite accumulation limits prescribed in WAC 173-303-174(1).

(3) Accumulation of waste in containers.
   (a) Condition of containers. If a container holding dangerous waste is not in good condition (e.g., severe corroding or rusting or flaking or scaling, and/or apparent structural defects) or if it begins to leak or is leaking, the generator must transfer the dangerous waste from this container to a container that is in good condition and does not leak and continue to manage that container and waste in compliance with the conditions for exemption in this section. In addition, the owner or operator must address leaks and spills in accordance with the applicable provisions of WAC 173-303-145 and 173-303-360.

   (b) Compatibility of waste with container. The generator must use a container made of or lined with materials which will not react with, and are otherwise compatible with, the dangerous waste to be stored, so that the ability of the container to contain the waste is not impaired.

   (c) Management of containers.
      (i) A container holding dangerous waste must be closed at all times, except when it is necessary to add or remove waste.
      (ii) A container holding dangerous waste must not be opened, handled, or stored in a manner which may rupture the container or cause it to leak.
      (iii) A minimum thirty-inch aisle space separation is required between rows of containers. A row of containers must be no more than two wide and allow for unobstructed inspection of each container.

   (d) Inspections. The generator must conduct "weekly inspections," as defined in WAC 173-303-040, of each central accumulation area looking for leaking containers and for deterioration of containers and the containment system caused by corrosion, deterioration, or other factors. The generator must keep a written or electronic inspection log including at least the date and time of the inspection, the printed name and the handwritten or electronic signature of the inspector, a notation of the observations made and the date and nature of any repairs or remedial actions taken. The log must be kept at the facility for at least five years from the date of inspection. See subsection (5)(a) of this section for remedial action required if deterioration or leaks are detected.

   (e) Secondary containment. For container accumulation the department requires that the central accumulation area(s) must include secondary containment in accordance with WAC 173-303-630(7).
(f) Special requirements for ignitable or reactive waste.
   (i) Containers holding reactive waste exhibiting a characteristic specified in WAC 173-303-090 (7)(a)(vi), (vii) or (viii) must be stored in a manner equivalent to the separation distance for storage of explosives in the International Fire Code, 2015 edition, or the version adopted by the local fire district.
   (ii) The generator must design, operate, and maintain ignitable waste and reactive waste (other than a reactive waste which must meet (f)(i) of this subsection) container storage in a manner equivalent with the International Fire Code. Where no specific standard or requirements are specified in the International Fire Code, or in existing state or local fire codes, applicable sections of NFPA 30 "Flammable and Combustible Liquids Code," must be used. The generator must also comply with the requirements of WAC 173-303-395 (1)(d).
   (iii) The generator must take precautions to prevent accidental ignition or reaction of ignitable or reactive waste. This waste must be separated and protected from sources of ignition or reaction including, but not limited to, the following: Frictional heat, sparks (static, electrical, or mechanical), and radiant heat. While ignitable or reactive waste is being handled, the generator must confine smoking and open flame to specially designated locations. "No Smoking" signs must be conspicuously place wherever there is a hazard from ignitable or reactive waste.

(g) Special requirements for incompatible wastes.
   (i) Incompatible waste, or incompatible wastes and materials must not be placed in the same container, unless WAC 173-303-395 (1)(b) is complied with.
   (ii) Dangerous waste must not be placed in an unwashed container that previously held an incompatible waste or material.
   (iii) A storage container holding a dangerous waste that is incompatible with any waste or other materials stored nearby in other containers, piles, open tanks, or surface impoundments must be separated from the other materials or protected from them by means of a dike, berm, wall, or other device. Containment systems for incompatible wastes must be separate.

(h) Closure.
   (i) At closure, all dangerous waste and dangerous waste residues must be removed from the containment system. Remaining containers, liners, base, and soil containing or contaminated with dangerous waste or dangerous waste residues must be decontaminated or removed.
   (ii) In addition, such a generator is exempt from all the requirements in WAC 173-303-610 and 173-303-620, except for WAC 173-303-610 (2) and (5).

   (i) Air emission standards. The generator must comply with the applicable requirements of 40 C.F.R. Part 265, Subparts AA, BB, and CC incorporated by reference in WAC 173-303-400 (3)(a).
   (4) Accumulation of dangerous waste in tanks. The generator must comply with:
      (a) Applicable air emission standards of 40 C.F.R. Part 265, Subparts AA, BB, and CC incorporated by reference in WAC 173-303-400 (3)(a); and
      (b) Tank standards of WAC 173-303-640 (2) through (10), except WAC 173-303-640 (8)(c) and the second sentence of WAC 173-303-640 (8)(a). (Note: A generator, unless otherwise required to do so, does not have to prepare a closure plan, a cost estimate for closure, or provide financial responsibility of their tank system to satisfy the requirement of this section.) Such a generator is exempt from the re-
quirements of WAC 173-303-620 and 173-303-610, except for WAC 173-303-610 (2) and (5).

(5) Accumulation of dangerous waste on drip pads. If the waste is placed on drip pads, the generator must comply with the following:
(a) WAC 173-303-675; and
(b) Remove all wastes from the drip pad and associated collection systems at least once every ninety days; and
(c) Waste removed from drip pads and associated collection systems must be sent immediately to:
   (i) An off-site designated facility; or
   (ii) An on-site permitted facility; or
   (iii) To an on-site central accumulation area where the waste is managed in compliance with the on-site central accumulation area regulations in this section for the remainder of the ninety-day accumulation time limit for large quantity generators. (Example: A generator removes waste from the drip pad at fifty days, and the generator is then allowed to further accumulate that waste in its central accumulation area for up to an additional forty days.);
(d) Maintain the following records on site and readily available for inspection:
   (i) The original start date waste was first placed on, or began to accumulate on, the drip pad;
   (ii) A description of procedures that will be followed to ensure that all wastes are removed from the drip pad and associated collection systems at least once every ninety days; and
   (iii) Documentation of each waste removal, including the quantity of waste removed from the drip pad and the sump or collection system and the date and time of removal.

(6) Accumulation of waste in containment buildings. If the waste is placed in containment buildings, the generator must comply with the following:
(a) 40 C.F.R. Part 265, Subpart DD, which is incorporated by reference; and
(b) Labeling.
   (i) The generator must label its containment building with the words "Dangerous Waste" or "Hazardous Waste" in a conspicuous place easily visible and legible to employees, visitors, emergency responders, waste handlers, or other persons on site. The label must be visible and legible from a distance of twenty-five feet or the lettering size is a minimum of one-half inch in height; and
   (ii) The generator must also, in a conspicuous place easily visible and legible to employees, visitors, emergency responders, waste handlers, or other persons on site, provide its containment building with an indication of the hazards of the contents (examples include, but are not limited to, the applicable dangerous waste characteristic(s) and criteria of ignitable, corrosive, reactive and toxic and the applicable hazard(s) identified for listed dangerous waste). The indication must be:
      (A) Legible and/or recognizable from a distance of twenty-five feet or the lettering size is a minimum of one-half inch in height; and
      (B) Include descriptive word(s) and/or pictogram(s) that identifies the hazards associated with the contents.
(c) The generator must also maintain the following records at the facility:
   (i) The independent qualified registered professional engineer certification that the building complies with the design standards.
specified in 40 C.F.R. 265.1101 in the facility's operating record no later than sixty days after the date of initial operation of the unit. Where Subpart G and H are referenced in 40 C.F.R. 265.1102, replace them with WAC 173-303-610 and 173-303-620. After February 18, 1993, PE certification will be required prior to operation of the unit.

(ii) A written description of procedures to ensure that each waste volume remains in the unit for no more than ninety days, a written description of the waste generation and management practices for the facility showing that they are consistent with respecting the ninety-day limit, and documentation that the procedures are complied with; or

(iii) Documentation that the unit is emptied at least once every ninety days.

(iv) Inventory logs or records with the above information must be maintained on site and readily available for inspection.

(7) Labeling and marking of containers and tanks.

(a) A generator must clearly mark or label its containers as follows:

(i) With the date upon which each period of accumulation begins is marked and clearly visible for inspection on each container.

(ii) With the words "Dangerous Waste" or "Hazardous Waste" where the label or marking is legible from a distance of twenty-five feet or the lettering size is a minimum of one-half inch in height.

(iii) With an indication of the hazards of the contents (examples include, but are not limited to, applicable dangerous waste characteristic(s) or criteria of ignitable, corrosive, reactive and toxic and the applicable hazard(s) identified for listed dangerous wastes). The label or marking must be:

(A) Legible and/or recognizable from a distance of twenty-five feet or the lettering size is a minimum of one-half inch in height; and

(B) Include descriptive word(s) and/or pictogram(s) that identifies the hazards associated with the contents of the containers for the public, emergency response personnel, and employees.

(b) Generators accumulating dangerous waste in tanks must do the following:

(i) Clearly mark or label its tanks with the words "Dangerous Waste" or "Hazardous Waste" where the label or marking is legible from a distance of fifty feet. For underground tank systems, the marking or labels must either be placed on aboveground postings at each underground tank system or at each entrance to the active portion (area where the underground tank/tank system is located).

(ii) Clearly mark or label its tanks with an indication of the hazards of the contents (examples include, but are not limited to, the applicable dangerous waste characteristic(s) and criteria of ignitable, corrosive, reactive and toxic and the applicable hazard(s) identified for listed dangerous wastes). For underground tank systems, the hazardous marking or labels must either be placed on aboveground postings at each underground tank system or at each entrance to the active portion (area where the underground tank/tank system is located). The label or marking must be:

(A) Legible and/or recognizable from a distance of at least fifty feet.

(B) Include descriptive word(s) and/or pictogram(s) that identifies the hazards associated with the contents of the tanks for the public, emergency response personnel, and employees.
(iii) Use inventory logs, monitoring equipment, or other records to demonstrate that dangerous waste has been emptied within ninety days of first entering the tank if using a batch process, or in the case of a tank with a continuous flow process, demonstrate that estimated volumes of dangerous waste entering the tank daily exit the tank within ninety days of first entering.

(iv) Keep inventory logs or records with the above information on site and readily available for inspection.

(c) The department may also require that a sign be posted at each entrance to the accumulation area, bearing the legend, "danger - unauthorized personnel keep out," or an equivalent legend, written in English, and legible from a distance twenty-five feet or more.

(b) Emergency procedures. The generator complies with the standards of WAC 173-303-201.

9 Personnel training.

(a) Training program. The generator must provide a program of classroom instruction or on-the-job training for facility personnel. This program must teach personnel to perform their duties in a way that ensures the facility's compliance with this chapter, must teach facility personnel dangerous waste management procedures (including contingency plan implementation) relevant to the positions in which they are employed, must ensure that facility personnel are able to respond effectively to emergencies, and must include those elements set forth in the training plan required in (b) of this subsection. In addition:

(i) The training program must be directed by a person knowledgeable in dangerous waste management procedures, and must include training relevant to the positions in which the facility personnel are employed;

(ii) Facility personnel must participate in an annual review of the training provided in the training program;

(iii) This program must be successfully completed by the facility personnel:

(A) Within six months after these regulations become effective; or

(B) Within six months after their employment at or assignment to the facility, or to a new position at the facility, whichever is later.

(iv) Employees hired after the effective date of these regulations must be supervised until they complete the training program; and

(v) At a minimum, the training program must familiarize facility personnel with emergency equipment and systems, and emergency procedures. The program must include other parameters as set forth by the department, but at a minimum must include, where applicable:

(A) Procedures for using, inspecting, repairing, and replacing facility emergency and monitoring equipment;

(B) Key parameters for automatic waste feed cut-off systems;

(C) Communications or alarm systems;

(D) Response to fires or explosions;

(E) Response to ground-water contamination incidents; and

(F) Shutdown of operations.

(b) Written training plan. The generator must develop a written training plan which must be kept at the facility and which must include the following documents and records:

(i) For each position related to dangerous waste management at the facility, the job title, the job description, and the name of the employee filling each job. The job description must include the requi-
site skills, education, other qualifications, and duties for each position;

(ii) A written description of the type and amount of both introductory and continuing training required for each position; and

(iii) Records documenting that facility personnel have received and completed the training required by this section. The department may require, on a case-by-case basis, that training records include employee initials or signature to verify that training was received.

(c) Training records. Training records on current personnel must be kept until closure of the facility. Training records on former employees must be kept for at least three years from the date the employee last worked at the facility. Personnel training records may accompany personnel transferred within the same company.

(10) General inspections.

(a) The generator must inspect the facility to prevent malfunctions and deterioration, operator errors, and discharges which may cause or lead to the release of dangerous waste constituents to the environment, or a threat to human health. The generator must conduct these inspections often enough to identify problems in time to correct them before they harm human health or the environment.

(b) The generator must develop and follow a written schedule for inspecting all monitoring equipment, safety and emergency equipment, security devices, and operating and structural equipment that help prevent, detect, or respond to hazards to the public health or the environment. In addition:

(i) The schedule must be kept at the facility;

(ii) The schedule must identify the types of problems which are to be looked for during inspections;

(iii) The generator must keep a written or electronic inspection log or summary, including at least the date and time of the inspection, the printed name and the handwritten or electronic signature of the inspector, a notation of the observations made, an account of spills or discharges in accordance with WAC 173-303-145, and the date and nature of any repairs or remedial actions taken. The log or summary must be kept at the facility for at least five years from the date of inspection.

(c) The generator must remedy any problems revealed by the inspection, on a schedule which prevents hazards to the public health and environment. Where a hazard is imminent or has already occurred, remedial action must be taken immediately.

(11) Land disposal restrictions. The generator complies with all applicable requirements under 40 C.F.R. 268.

(12) Closure. A generator accumulating dangerous waste in containers, tanks, drip pads and containment buildings, prior to closing a unit at the facility, or prior to closing the facility, must meet the following conditions:

(a) Notification for closure of a waste accumulation unit. The generator must perform one of the following when closing a waste accumulation unit:

(i) Place a notice in the operating record within thirty days after closure identifying the location of the unit within the facility; or

(ii) Meet the closure performance standards of (c) of this subsection for container, tank, and containment building waste accumulation units or (d) of this subsection for drip pads and notify the department following the procedures of (b)(ii) of this subsection for the waste accumulation unit. If the waste accumulation unit is subse-
quently reopened, the generator may remove the notice from the operating record.

(b) Notification of closure of the facility.

(i) Notify the department using the Washington State Dangerous Waste Site Identification Form no later than thirty days prior to closing the facility.

(ii) Notify the department using the Washington State Dangerous Waste Site Identification Form within ninety days after closing the facility that it has complied with the closure performance standards of (c) or (d) of this subsection, respectively. If the facility cannot meet the closure performance standards of (c) or (d) of this subsection, notify the department using the Washington State Dangerous Waste Site Identification Form that it will close as a landfill under WAC 173-303-665 in the case of a container, tank or containment building unit(s), or for a facility with drip pads, notify using the Washington State Dangerous Waste Site Identification Form that it will close under the drip pad standards of WAC 173-303-675.

(iii) A generator may request additional time to clean at closure (i.e., to meet the closure performance standards of (c) or (d) of this subsection, respectively), but it must notify the department using the Washington State Dangerous Waste Site Identification Form within seventy-five days after the date provided in (b)(i) of this subsection to request an extension and provide an explanation as to why the additional time is required.

(c) Closure performance standard for container, tank systems and containment building waste accumulation units. At closure the generator must close the accumulation unit or facility in a manner that:

(i)(A) Minimizes the need for further maintenance;

(B) Controls, minimizes or eliminates to the extent necessary to protect human health and the environment, post-closure escape of dangerous waste, dangerous waste constituents, leachate, contaminated runoff, or dangerous waste decomposition products to the ground, surface water, groundwater, or the atmosphere; and

(C) Returns the land to the appearance and use of surrounding land areas to the degree possible given the nature of the previous dangerous waste activity.

(ii) Remove or decontaminate all contaminated equipment, bases, structures and soil and any remaining dangerous waste residues from waste accumulation units including containment system components (pads, liners, etc.), contaminated soils and subsoils, bases, and structures and equipment. Such removal or decontamination must assure that the levels of dangerous waste or dangerous waste constituents or residues do not exceed:

(A) For soils, groundwater, surface water, and air, the numeric cleanup levels calculated using unrestricted use exposure assumptions according to the Model Toxics Control Act regulations, chapter 173-340 WAC as of the effective date or hereafter amended. Primarily, these will be numeric cleanup levels calculated according to MTCA Method B, although MTCA Method A may be used as appropriate, see WAC 173-340-700 through 173-340-760, excluding WAC 173-340-745; and

(B) For all structures, equipment, bases, liners, etc., clean closure standards will be set by the department on a case-by-case basis in accordance with the closure performance standards of (c) of this subsection and in a manner that minimizes or eliminates post-closure escape of dangerous waste constituents.

(iii) Any dangerous waste and all contaminated equipment, structures and soils generated in the process of closing either the genera-
mentor's facility or unit(s) accumulating dangerous waste must be managed in accordance with all applicable standards of this chapter, including removing any dangerous waste contained in these units within ninety days of generating it and managing these wastes in a permitted designated facility.

(iv) If the generator demonstrates that any contaminated soils, equipment, structures, and wastes cannot be practicably removed or decontaminated as required in (c)(ii) of this subsection, then the waste accumulation unit is considered to be a landfill and the generator must close the waste accumulation unit and perform post-closure care in accordance with the closure and post-closure care requirements that apply to landfills (WAC 173-303-665). In addition, for the purposes of closure, post-closure, and financial responsibility, such a waste accumulation unit is then considered to be a landfill, and the generator must meet all of the requirements for landfills specified in WAC 173-303-665.

(d) Closure performance standards for drip pad waste accumulation units. At closure, the generator must comply with the closure requirements of (b), (c)(i) and (iii) of this subsection, and WAC 173-303-675.

(e) The closure requirements of this subsection do not apply to satellite accumulation areas.

(13) Accumulation of F006.

(a) A large quantity generator who also generates wastewater treatment sludges from electroplating operations that meet the listing description for the dangerous waste code F006, may accumulate F006 waste on site for more than ninety days, but not more than one hundred eighty days without a permit or without having interim status provided that:

(i) The generator has implemented pollution prevention practices that reduce the amount of any dangerous substances, pollutants or contaminants entering F006 or otherwise released to the environment prior to its recycling;

(ii) The F006 waste is legitimately recycled through metals recovery;

(iii) No more than 44,000 pounds of F006 waste is accumulated on site at any one time; and

(iv) The F006 waste is managed in accordance with the following:

(A) The F006 waste is placed:

(I) In containers and the generator complies with the applicable requirements of WAC 173-303-200(3), 173-303-690 through 173-303-692; and/or

(II) In tanks and the generator complies with the applicable requirements of WAC 173-303-690 through 173-303-692 and 173-303-200(4); and/or

(III) In containment buildings and the generator complies with Subpart DD of 40 C.F.R. Part 265 which is incorporated by reference at WAC 173-303-400(3), and has placed its independent qualified registered professional engineer certification that the building complies with the design standards specified in 40 C.F.R. 265.1101 in the facility's operating record prior to operation of the unit. The owner or operator must maintain the following records at the facility:

• A written description of procedures to ensure that the F006 waste remains in the unit for no more than one hundred eighty days, a written description of the waste generation and management practices for the facility showing that they are consistent with the one hundred
eighty-day limit, and documentation that the generator is complying with the procedures; or

- Documentation that the unit is emptied at least once every one hundred eighty days.

(B) In addition, such a generator is exempt from all the requirements in Subparts G and H of 40 C.F.R. Part 265, except for 265.111 and 265.114 which are incorporated by reference in WAC 173-303-400(3).

(C) Labeling and marking of containers and tanks. While being accumulated on site, each container and tank is clearly labeled or marked with:

(I) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;

(II) While being accumulated on site, each container and tank is labeled or marked clearly with the words "Dangerous Waste" or "Hazardous Waste." For containers the label or marking is legible from a distance of twenty-five feet or the lettering size is a minimum of one-half inch in height. For tanks the label or markings is legible from fifty feet. For underground tank systems, the label or markings, must either be placed on aboveground postings at each underground tank system or at each entrance to the active portion (area where the underground tank/tank system is located); and

(III) With an indication of the hazards of the contents (examples include, but are not limited to, applicable dangerous waste characteristic(s) or criteria of ignitable, corrosive, reactive and toxic). The label or marking must be:

- For containers, legible and/or recognizable from a distance of twenty-five feet or the lettering size is a minimum of one-half inch in height; and
- For tanks, legible and/or recognizable from fifty feet.
- A descriptive word(s) and/or pictogram(s) that identifies the hazards associated with the contents of the containers or tanks for the public, emergency response personnel, and employees.

(D) The generator complies with the requirements for owners or operators in WAC 173-303-200(9), 173-303-201 and with 40 C.F.R. 268.7(a)(5) which is incorporated by reference in WAC 173-303-140(2)(a).

(b) F006 transportation over two hundred miles. A generator who generates 2,200 pounds or greater of dangerous waste per calendar month who also generates wastewater treatment sludges from electroplating operations that meet the listing description for the dangerous waste code F006, and who must transport this waste, or offer this waste for transportation, over a distance of two hundred miles or more for off-site metals recovery, may accumulate F006 waste on site for more than ninety days, but not more than two hundred seventy days without a permit or without having interim status if the generator complies with the requirements of (a)(i) through (iv) of this subsection.

(c) F006 accumulation time extension. A generator accumulating F006 in accordance with (a) and (b) of this subsection who accumulates F006 waste on site for more than one hundred eighty days (or for more than two hundred seventy days if the generator must transport this waste, or offer this waste for transportation, over a distance of two hundred miles or more), or who accumulates more than 44,000 pounds of F006 waste on site is an operator of a storage facility and is subject to the facility and permit requirements of this chapter unless the generator has been granted an extension to the one hundred eighty-day (or two hundred seventy-day, if applicable) period or an exception to
the 44,000 pound accumulation limit. Such extensions and exceptions may be granted by the department if F006 waste must remain on site for longer than one hundred eighty days (or two hundred seventy days, if applicable) or if more than 44,000 pounds of F006 waste must remain on site due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to thirty days or an exception to the accumulation limit may be granted at the discretion of the department on a case-by-case basis.

(14) Rejected load. A generator who sends a shipment of dangerous waste to a designated facility with the understanding that the designated facility can accept and manage the waste and later receives that shipment back as a rejected load or residue in accordance with the manifest discrepancy provisions of WAC 173-303-370(5) may accumulate the returned waste on site in accordance with subsections (1) through (12) of this section. Upon receipt of the returned shipment, the generator must:
   (a) Sign Item 18c of the manifest, if the transporter returned the shipment using the original manifest; or
   (b) Sign Item 20 of the manifest, if the transporter returned the shipment using a new manifest.

(15) Consolidation of dangerous waste received from small quantity generators. Large quantity generators may accumulate on-site dangerous waste received from small quantity generators under the control of the same person (as defined in WAC 173-303-040), without a storage permit or interim status and without complying with the final facility standards of WAC 173-303-600, provided that they comply with the following conditions:
   (a) Definitions. The definition of "control" as it applies to this section is found in WAC 173-303-040.
   (b)(i) The large quantity generator must notify the department using Washington State Dangerous Waste Identification Form according to the instructions on the form at least thirty days prior to receiving the first shipment from a small quantity generator(s); and
   (ii) Identifies on the form the name(s) and site address(es) for the small quantity generator(s) as well as the name and business telephone number for a contact person for the small quantity generator(s); and
   (iii) Submits an updated Washington State Dangerous Waste Identification Form according to the instructions on the form within thirty days after a change in the name or site address for the small quantity generator.
   (c) The large quantity generator maintains records of shipments for five years from the date the dangerous waste was received from the small quantity generator. These records must identify the name, site address, and contact information for the small quantity generator and include a description of the dangerous waste received, including the quantity and the date the waste was received.
   (d) The large quantity generator complies with the independent requirements identified in WAC 173-303-170 (2)(a)(iii) and the conditions for exemption in this section.
   (e) For the purpose of complying with the labeling and marking regulations in subsection (7) of this section, the large quantity generator must label the container or unit with the date accumulation started (i.e., the date the dangerous waste was received from the small quantity generator). If the large quantity generator consolidates incoming dangerous waste from a small quantity generator with either its own dangerous waste or with dangerous waste from other
small quantity generators, the large quantity generator must label each container or unit with the earliest date any dangerous waste in the container was accumulated on site.

AMENDATORY SECTION (Amending WSR 04-24-065, filed 11/30/04, effective 1/1/05)

**WAC 173-303-201** (Special accumulation standards) Preparedness, prevention, emergency procedures and contingency plans for large quantity generators. (1) This section applies to persons who generate more than 220 pounds but less than 2200 pounds per calendar month and do not accumulate on-site more than 2200 pounds of dangerous waste. The special provisions of this section do not apply to acutely hazardous wastes or Toxic EHW (WT01) that exceed the QEL that are being generated or accumulated by the generator.

(2) For purposes of accumulating dangerous waste on-site, persons who generate no more than 2200 pounds per month or who accumulate on-site no more than 2200 pounds of dangerous waste at any one time are subject to all applicable provisions of WAC 173-303-200 except as follows:

(a) In lieu of the ninety-day accumulation period, dangerous wastes may be accumulated for one hundred eighty days or less. The department may, on a case-by-case basis, grant a maximum ninety-day extension to this one hundred eighty-day period if the generator must transport his waste, or offer his waste for transportation, over a distance of two hundred miles or more for offsite treatment, storage, or disposal, and the dangerous wastes must remain on-site due to unforeseen, temporary and uncontrollable circumstances;

(b) The generator need not comply with WAC 173-303-330 (Personnel training);

(c) In lieu of the contingency plan and emergency procedures required by WAC 173-303-350 and 173-303-360, the generator must comply with the following:

(i) At all times there must be at least one employee either on the premises or on call (i.e., available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures specified in (c)(iv) of this subsection. This employee is the emergency coordinator.

(ii) The generator must post the following information next to all emergency communication devices (including telephones, two-way radios, etc.):

(A) The name and telephone number of the emergency coordinator;
(B) Location of fire extinguishers and spill control material, and, if present, fire alarm; and
(C) The telephone number of the fire department, unless the facility has a direct alarm.

(iii) The generator must ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relevant to their responsibilities during normal facility operations and emergencies;

(iv) The emergency coordinator or his designee must respond to any emergencies that arise. The applicable responses are as follows:
(A) In the event of a fire, call the fire department or attempt
to extinguish it using a fire extinguisher;

(B) In the event of a spill, contain the flow of dangerous waste
to the extent possible, and as soon as is practicable, clean up the
dangerous waste and any contaminated materials or soil;

(C) In the event of a fire, explosion, or other release which
could threaten human health outside the facility or when the generator
has knowledge that a spill has reached waters of the state, the gener-
ator must immediately notify the department and either the government
official designated as the on-scene coordinator, or the National Re-
sponse Center (using their twenty-four hour toll free number
800/424-8802). The report must include the following information:

(I) The name, address, and EPA/state identification number of the
generator;

(II) Date, time, and type of incident (e.g., spill or fire);

(III) Quantity and type of hazardous waste involved in the inci-
dent;

(IV) Extent of injuries, if any; and

(V) Estimated quantity and disposition of recovered materials, if
any.

(d) For waste that is placed in tanks, generators must comply
with WAC 173-303-202 in lieu of WAC 173-303-200 (1)(b);

(c) The generator does not need to comply with 40 C.F.R. Part
265.176 and 40 C.F.R. Subparts AA, BB, and CC, which have been incor-
porated by reference at WAC 173-303-400 (3)(a)).

(1) Applicability. The regulations of this section apply to those areas of a large quan-
tity generator's facility where dangerous waste is generated or accu-
mulated on site.

(2) A large quantity generator facility must be designed, con-
structed, maintained and operated to minimize the possibility of fire,
explosion, or any unplanned sudden or nonsudden release of dangerous
waste, hazardous substance or dangerous waste constituents to air,
soil, or surface or groundwater which could threaten the public health
or the environment. This section describes preparations and preventive
measures which help avoid or mitigate such situations.

(3) Required equipment. All areas deemed applicable by subsection
(1) of this section must be equipped with the following, unless it can
be demonstrated to the department that none of the hazards posed by
waste or hazardous substance handled at the facility could require a
particular kind of equipment specified below. A large quantity genera-
tor may determine the most appropriate locations within its facility
to locate equipment necessary to prepare for and respond to emergen-
cies:

(a) An internal communications or alarm system capable of provid-
ing immediate emergency instruction (voice or signal) to facility per-
sonnel;

(b) A device, such as a telephone (immediately available at the
scene of operations) or a hand-held, two-way radio, capable of summon-
ing emergency assistance from local police departments, fire depart-
ments, or state or local emergency response teams;

(c) Portable fire extinguishers, fire control equipment (includ-
ing special extinguishing equipment, such as those using foam, inert
gas, or dry chemicals), spill control equipment, and decontamination
equipment; and

(d) Water at adequate volume and pressure to supply water hose
streams, foam producing equipment, automatic sprinklers, or water
spray systems.
(4) Testing and maintenance of equipment. All facility communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, where required, must be tested and maintained as necessary to assure its proper operation in time of emergency.

(5) Access to communications or alarms. Personnel must have immediate access to the signaling devices described in the situations below:

(a) Whenever dangerous waste is being poured, mixed, spread, or otherwise handled, all personnel involved must have immediate access (e.g., direct or unimpeded access) to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee, unless such a device is not required in subsection (3) of this section;

(b) If there is ever just one employee on the premises while the facility is operating, they must have immediate access (e.g., direct or unimpeded access) to a device, such as a telephone (immediately available at the scene of operation) or a hand-held, two-way radio, capable of summoning external emergency assistance, unless such a device is not required in subsection (3) of this section.

(6) Aisle space. The generator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless it can be demonstrated to the department that aisle space is not needed for any of these purposes.

(7) Arrangements with local authorities. The large quantity generator must attempt to make the following arrangements, as appropriate for the type of waste handled at its facility and the potential need for the services of these organizations, unless the hazards posed by wastes handled at the facility would not require these arrangements:

(a) Arrangements to familiarize police, fire departments, and emergency response teams with the layout of the facility, properties of dangerous waste handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to and roads inside the facility, and possible evacuation routes;

(b) Arrangements to familiarize local hospitals with the properties of dangerous waste handled at the facility and the types of injuries or illnesses which could result from fires, explosions, or releases at the facility;

(c) Agreements with state emergency response teams, emergency response contractors, and equipment suppliers;

(d) Where more than one party might respond to an emergency, agreements designating primary emergency authority and agreements with any others to provide support to the primary emergency authority; and

(e) Where state or local authorities decline to enter into such arrangements, the owner or operator must document the refusal in the operating record.

(8) Contingency plan purpose and implementation.

(a) The large quantity generator must have a contingency plan for the facility. The purpose of a contingency plan and emergency procedures is to lessen the potential impact on the public health and the environment due to any emergency event such as, but not limited to, a fire, natural disaster, explosion, or any unplanned sudden or non-sudden release of dangerous waste, hazardous substance or dangerous waste constituents to air, soil, surface water, or groundwater.
A contingency plan must be developed to lessen the potential impacts of such emergency events, and the plan must be implemented immediately when such emergency events occur.

(9) Contents of a contingency plan.

(a) Each large quantity generator must have a contingency plan at their facility for use in emergencies or any sudden or nonsudden releases which threaten human health and the environment. If the generator has already prepared a spill prevention control and countermeasures (SPCC) plan in accordance with 40 C.F.R. Part 112, or some other emergency or contingency plan, they need only amend that plan to incorporate dangerous waste management provisions that are sufficient to comply with the requirements of this section. The large quantity generator may develop one contingency plan that meets all regulatory requirements. Ecology recommends that the plan be based on the National Response Team's Integrated Contingency Plan Guidance ("One Plan"). When modifications are made to nondangerous waste (non-Hazardous Waste Management Act or nondangerous waste regulation) provisions in an integrated contingency plan, the changes do not trigger the need for a dangerous waste permit modification.

(b) The contingency plan must contain the following:

(i) A description of the actions which facility personnel must take to comply with this section and WAC 173-303-145;

(ii) A description of the actions which will be taken in the event that a dangerous waste shipment, which is damaged or otherwise presents a hazard to the public health and the environment, arrives at the facility, and is not acceptable to the large quantity generator, but cannot be transported, pursuant to the requirements of WAC 173-303-370(6), manifest system, reasons for not accepting dangerous waste shipments;

(iii) A description of the arrangements agreed to by local police departments, fire departments, hospitals, contractors, and state and local emergency response teams to coordinate emergency services as required in subsection (7) of this section;

(iv) A current list of names and emergency telephone numbers of all persons qualified to act as the emergency coordinator required in this section and this list must be kept up to date. Where more than one person is listed, one must be named as primary emergency coordinator, and others must be listed in the order in which they will assume responsibility as alternates. In situations where the large quantity generator facility has an emergency coordinator continuously on duty because it operates twenty-four hours per day, every day of the year, the plan may list the staffed position (e.g., operations manager, shift coordinator, shift operations supervisor) as well as an emergency telephone number that can be guaranteed to be answered at all times;

(v) A list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems, and decontamination equipment), where this equipment is required. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list, and a brief outline of its capabilities; and

(vi) An evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. This plan must describe the signal(s) to be used to begin evacuation, evacuation routes, and alternate evacuation routes (in cases where the primary routes could be blocked by releases of materials or fires).
(10) Copies of contingency plan. A copy of the contingency plan and all revisions to the plan must be:
   (a) Maintained at the large quantity generator's facility; and
   (b) Submitted by the large quantity generator to all local emergency responders (i.e., police departments, fire departments, hospitals, and state and local emergency response teams) that may be called upon to provide emergency services.

(11) Quick reference guide.
   (a) A large quantity generator who first becomes subject to these provisions and any current large quantity generator who is amending its contingency plan must at that time submit a quick reference guide of the contingency plan to the local emergency responders identified in subsection (10) of this section.
   (b) Contents of the quick reference guide. This quick reference guide must include the following elements:
      (i) The types and names of dangerous waste in layman's terms and the associated hazards associated with each dangerous waste present at any one time (e.g., toxic paint waste, spent ignitable solvent, corrosive acid);
      (ii) The estimated maximum amount of each dangerous waste that may be present at any one time;
      (iii) The identification of any dangerous waste where exposure would require unique or special treatment by medical or hospital staff;
      (iv) A map of the facility showing where dangerous waste are generated, accumulated, recycled and treated and routes for accessing these wastes;
      (v) A street map of the facility in relation to surrounding businesses, schools and residential areas to understand how best to get to the facility and also evacuate citizens and workers;
      (vi) The locations of water supply (e.g., fire hydrant and its flow rate);
      (vii) The identification of on-site notification systems (e.g., a fire alarm that rings off site, smoke alarms); and
      (viii) The name of the emergency coordinator(s) and seven days/ twenty-four-hours emergency telephone number(s) or, in the case of a facility where an emergency coordinator is continuously on duty, the emergency telephone number for the emergency coordinator.
   (c) Generators must update, if necessary, their quick reference guides, whenever the contingency plan is amended and submit these documents to the local emergency responders identified in this section.

(12) Amendments of a contingency plan. The large quantity generator must review and immediately amend the contingency plan, if necessary, whenever:
   (a) Applicable regulations are revised;
   (b) The plan fails in an emergency;
   (c) The generator's facility changes (in its design, construction, operation, maintenance, or other circumstances) in a way that materially increases the potential for fires, explosions, or releases of dangerous waste or dangerous waste constituents, or in a way that changes the response necessary in an emergency;
   (d) The list of emergency coordinators changes; or
   (e) The list of emergency equipment changes.

(13) Emergency coordinator. At all times, there must be at least one employee either on the facility premises or on call (that is, available to respond to an emergency by reaching the facility within a
short period of time) with the responsibility for coordinating all emergency response measures. This emergency coordinator must be thoroughly familiar with all aspects of the facility's contingency plan, required by subsection (9) of this section, all operations and activities at the facility, the location and properties of all wastes handled, the location of all records within the facility, and the facility layout. In addition, this person must have the authority to commit the resources needed to carry out the contingency plan and to implement the necessary emergency procedures outlined in subsection (14) of this section.

(14) Emergency procedures. The following procedures must be implemented in the event of an emergency:

(a) Whenever there is an imminent or actual emergency situation, the emergency coordinator (or designee when the emergency coordinator is on call) must immediately:

(i) Activate internal facility alarms or communication systems, where applicable, to notify all facility personnel; and

(ii) Notify appropriate state or local agencies with designated response roles if their help is needed.

(b) Whenever there is a release, fire, or explosion, the emergency coordinator must immediately identify the character, exact source, amount, and areal extent of any released materials.

(c) Concurrently, the emergency coordinator must assess possible hazards to human health and the environment (considering direct, indirect, immediate, and long-term effects) that may result from the release, fire, or explosion.

(d) If the emergency coordinator determines that the facility has had a release, fire, or explosion which could threaten human health or the environment, they must report their findings as follows:

(i) If their assessment indicates that evacuation of local areas may be advisable, they must immediately notify appropriate local authorities. They must be available to help appropriate officials decide whether local areas should be evacuated; and

(ii) They must immediately notify the department and either the government official designated as the on-scene coordinator, or the National Response Center (using their twenty-four-hour toll free number 1-800-424-8802).

(e) Their assessment report must include:

(i) Name and telephone number of reporter;

(ii) Name and address of facility;

(iii) Time and type of incident (e.g., release, fire);

(iv) Name and quantity of material(s) involved, to the extent known;

(v) The extent of injuries, if any; and

(vi) The possible hazards to human health or the environment outside the facility.

(f) During an emergency, the emergency coordinator must take all reasonable measures necessary to ensure that fires, explosions, and releases do not occur, recur, or spread to other dangerous waste at the facility. These measures must include, where applicable, stopping processes and operations, collecting and containing released waste, and removing or isolating containers.

(g) If the facility stops operations in response to a fire, explosion, or release, the emergency coordinator must monitor for leaks, pressure buildup, gas generation, or ruptures in valves, pipes, or other equipment, wherever this is appropriate.
Immediately after an emergency, the emergency coordinator must provide for treating, storing, or disposing of recovered waste, contaminated soil or surface water, or any other material that results from a release, fire, or explosion at the facility.

(i) The emergency coordinator must ensure that, in the affected area(s) of the facility:

(i) No waste that may be incompatible with the released material is treated, stored, or disposed of until cleanup procedures are completed; and

(ii) All emergency equipment listed in the contingency plan is cleaned and fit for its intended use before operations are resumed.

(j) The large quantity generator must notify the department, and appropriate local authorities, that the facility is in compliance with subsection (i) of this section before operations are resumed in the affected area(s) of the facility.

(k) The large quantity generator must note in the operating record the time, date, and details of any incident that requires implementing the contingency plan. Within fifteen days after the incident, they must submit a written report on the incident to the department. The report must include:

(i) Name, address, and telephone number of the owner or operator;

(ii) Name, address, and telephone number of the facility;

(iii) Date, time, and type of incident (e.g., fire, explosion);

(iv) Name and quantity of material(s) involved;

(v) The extent of injuries, if any;

(vi) An assessment of actual or potential hazards to human health or the environment, where this is applicable;

(vii) Estimated quantity and disposition of recovered material that resulted from the incident;

(viii) Cause of incident; and

(ix) Description of corrective action taken to prevent recurrence of the incident.

AMENDATORY SECTION (Amending WSR 94-01-060, filed 12/8/93, effective 1/8/94)

WAC 173-303-202 ((Special requirements for generators of between two hundred twenty and two thousand two hundred pounds per month that accumulate dangerous waste in tanks.) Reserved. ) ((1)) This section applies to generators of more than two hundred twenty pounds but less than two thousand two hundred pounds of dangerous waste in a calendar month, that accumulate dangerous waste in tanks for less than one hundred eighty days (or two hundred seventy days if the generator must ship the waste greater than two hundred miles), and do not accumulate over two thousand two hundred pounds on-site at any time.

(2) Generators of between two hundred twenty and two thousand two hundred pounds per month of dangerous waste must comply with the following general operating requirements:

(a) Treatment or storage of dangerous waste in tanks must comply with WAC 173-303-395(1).

(b) Dangerous wastes or treatment reagents must not be placed in a tank if they could cause the tank or its inner liner to rupture, leak, corrode, or otherwise fail before the end of its intended life.
(c) Uncovered tanks must be operated to ensure at least sixty centimeters (two feet) of freeboard, unless the tank is equipped with a containment structure (e.g., dike or trench), a drainage control system, or a diversion structure (e.g., standby tank) with a capacity that equals or exceeds the volume of the top sixty centimeters (two feet) of the tank.

(d) Where dangerous waste is continuously fed into a tank, the tank must be equipped with a means to stop this inflow (e.g., waste feed cutoff system or by-pass system to a standby tank).

Note: These systems are intended to be used in the event of a leak or overflow from the tank due to a system failure (e.g., a malfunction in the treatment process, a crack in the tank, etc.).

(3) Generators of between two hundred twenty and two thousand two hundred pounds per month accumulating dangerous waste in tanks must inspect, where present:

(a) Discharge control equipment (e.g., waste feed cutoff systems, by-pass systems, and drainage systems) at least once each operating day, to ensure that it is in good working order;

(b) Data gathered from monitoring equipment (e.g., pressure and temperature gauges) at least once each operating day to ensure that the tank is being operated according to its design;

(c) The level of waste in the tank at least once each operating day to ensure compliance with subsection (2)(c) of this section;

(d) The construction materials of the tank at least weekly to detect corrosion or leaking of fixtures or seams; and

(e) The construction materials of, and the area immediately surrounding, discharge confinement structures (e.g., dikes) at least weekly to detect erosion or obvious signs of leakage (e.g., wet spots or dead vegetation).

Note: As required by WAC 173-303-320(3), the owner or operator must remedy any deterioration or malfunction he finds.

(4) Generators of between two hundred twenty and two thousand two hundred pounds per month accumulating dangerous waste in tanks must, upon closure of the facility, remove all dangerous waste from tanks, discharge control equipment, and discharge confinement structures.

Note: At closure, as throughout the operating period, unless the owner or operator can demonstrate, in accordance with WAC 173-303-070 (2)(a) or (b), that any solid waste removed from his tank is not a dangerous waste, the owner or operator becomes a generator of dangerous waste and must manage it in accordance with all applicable requirements of this chapter.

(5) Generators of between two hundred twenty and two thousand two hundred pounds per month must comply with the following special requirements for ignitable or reactive waste:

(a) Ignitable or reactive waste must not be placed in a tank, unless:

(i) The waste is treated, rendered, or mixed before or immediately after placement in a tank so that:

(A) The resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under WAC 173-303-090 (5) or (7) of this chapter, and

(B) WAC 173-303-395(1) is complied with; or

(ii) The waste is stored or treated in such a way that it is protected from any material or conditions that may cause the waste to ignite or react; or

(iii) The tank is used solely for emergencies.

(b) The owner or operator of a facility which treats or stores ignitable or reactive waste in covered tanks must comply with the buffer zone requirements for tanks contained in Tables 2-1 through 2-6 of the National Fire Protection Association's "Flammable and Combustible Liquids Code," (1977 or 1981).
Generators of between two hundred twenty and two thousand two hundred pounds per month must comply with the following special requirements for incompatible wastes:

(a) Incompatible wastes, or incompatible wastes and materials, (see 40 C.F.R. Part 265 Appendix V for examples) must not be placed in the same tank, unless WAC 173-303-395(1) is complied with.

(b) Dangerous waste must not be placed in an unwashed tank which previously held an incompatible waste or material, unless WAC 173-303-395(1) is complied with.)

AMENDATORY SECTION (Amending WSR 04-24-065, filed 11/30/04, effective 1/1/05)

WAC 173-303-210 Generator recordkeeping. (1) The generator must keep a copy of each manifest signed by the initial transporter in accordance with WAC 173-303-180(3), manifest procedures, for three years, or until (he) they receive(s) a signed copy from the designated facility which received the waste. The signed facility copy must be retained for at least five years from the date the waste was accepted by the initial transporter.

(2) The generator must keep a copy of each annual report and exception report as required by WAC 173-303-220 for a period of at least five years from the due date of each report. The generator must keep a copy of (his) their most recent Dangerous Waste Site Identification Form until (he is) they are no longer defined as a generator under this chapter.

(3) Waste designation records.

(a) The generator must keep records of any test results, waste analyses, or other determinations made in accordance with WAC 173-303-170((1))) for designating dangerous waste, including records that identify whether a solid waste is a dangerous waste, for at least five years from the date that the waste was last transferred for on-site or off-site treatment, storage, or disposal.

(b) At a minimum, test results must include:

(i) The sample source, sampling date, and sampling procedure used;

(ii) The laboratory performing the test;

(iii) The testing date, and testing method used;

(iv) The analytical result, or the quantitative range of the testing method for analytes not detected.

(c) For knowledge base designations, records must explain the knowledge basis for the generator's designation.

(4) Any other records required for generators accumulating wastes on-site as described in WAC 173-303-172 or 173-303-200 (or 173-303-201) must be retained for at least five years((7)) including, but not limited to, such items as inspection logs.

(5) The periods of retention for any records described in this section will be automatically extended during the course of any unresolved enforcement action requiring those records or upon request by the director.

(6) All generator records, including plans required by this chapter, will be made available and furnished upon request by the director.
WAC 173-303-220 Generator reporting. The generator must submit the following reports to the department by the specified due date for each report, or within the time period allowed for each report.

(1) Annual reports.
   (a) A generator or any person who has obtained an EPA/state identification number pursuant to WAC 173-303-060 must submit an annual report to the department if the number has been active any time during the reporting year, on the Dangerous Waste Annual Report according to the instructions on the form (copies are available from the department), no later than March 1 for the preceding calendar year.
   (b) Any generator who is a large quantity generator or a medium quantity generator for at least one month of the calendar year who ships any dangerous waste off site to a treatment, storage, disposal or recycling facility must comply with the annual reporting requirements of WAC 173-303-060 covering those wastes and generator activities for that reporting year.
   (c) Any generator who is a large quantity generator or a medium quantity generator for at least one month of the calendar year who stores, treats, recycles or disposes of dangerous waste on-site must comply with the annual reporting requirements of WAC 173-303-390 covering those wastes and activities for that reporting year.
   (d) Any large quantity generator that receives dangerous waste from small quantity generators pursuant to WAC 173-303-200(15) must comply with the annual reporting requirements of WAC 173-303-390 Facility reporting.
   (e) Reporting for exports of hazardous waste is required on the annual report form. In addition, a separate annual report requirement is set forth at 40 C.F.R. 262.56, which is incorporated by reference at WAC 173-303-230(1).

(2) Exception reports.
   (a) A generator who does not receive a copy of the manifest with the handwritten signature of the owner/operator of the designated facility within thirty-five days of the date the waste was accepted by the initial transporter must contact the transporter(s) and/or facility to determine the status of the dangerous waste shipment.
   (b) A generator must submit an exception report to the department if they have not received a copy of the manifest with the handwritten signature of the owner/operator of the designated facility within forty-five days of the date the waste was accepted by the initial transporter.
   (c) The exception report must include:
      (i) A legible copy of the manifest for which the generator does not have confirmation of delivery; and
      (ii) A cover letter signed by the generator or their representative explaining the efforts taken to locate the waste and the results of those efforts.
   (d) The department may require a generator to submit exception reports in less than forty-five days if it finds that the generator frequently or persistently endangers public health or the environment through improper waste shipment practices.
   (e) For rejected shipments of dangerous waste or container residues contained in nonempty containers that are forwarded to an alter-
nate facility by a designated facility using a new manifest (following the procedures of WAC 173-303-370 (5)(e)), the generator must comply with the requirements of (a) through (d) of this subsection, as applicable, for the shipment forwarding the material from the designated facility to the alternate facility instead of for the shipment from the generator to the designated facility. For purposes of (a) through (d) of this subsection for a shipment forwarding such waste to an alternate facility by a designated facility:

(i) The copy of the manifest received by the generator must have the handwritten signature of the owner or operator of the alternate facility in place of the signature of the owner or operator of the designated facility; and

(ii) The thirty-five to forty-five day time frames begin the date the waste was accepted by the initial transporter forwarding the hazardous waste shipment from the designated facility to the alternate facility.

Note: The submission to the department need only be a handwritten or typed note on the manifest itself, or on an attached sheet of paper, stating that the return copy was not received.

(3) Additional reports. The director, as ((he)) they deem((s)) necessary under chapter 70.105 RCW, may require a generator to furnish additional reports (including engineering reports, plans, and specifications) concerning the quantities and disposition of the generator's dangerous waste.

AMENDATORY SECTION (Amending WSR 15-01-123, filed 12/18/14, effective 1/18/15)

WAC 173-303-230 Special conditions. (1) Exporting dangerous waste.

Federal export requirements, administered by EPA, are set forth at 40 C.F.R. 262 ((Subparts E and)) Subpart H and 40 C.F.R. 261.6 (a)(3)(i)(A) and (B), and specify the procedures applicable to generators and transporters of hazardous waste (as defined in WAC 173-303-040). These requirements are incorporated by reference. Copies of any forms or reports submitted to the administrator of United States EPA as required by 40 C.F.R. 262 Subpart ((E)) H must also be submitted to the department.

(2) Importing dangerous waste. When importing dangerous waste from a foreign country into Washington state, the United States importer must comply with all the requirements of this chapter for generators, including the requirements of WAC 173-303-180, except that:

(a) In place of the generator's name, address and EPA/state identification number, the name and address of the foreign generator and the importer's name, address and EPA/state identification number must be used; and

(b) In place of the generator's signature on the certification statement, the United States importer or ((his)) their agent must sign and date the certification and obtain the signature of the initial transporter.

(c) A person who imports dangerous waste may obtain the manifest form from any source that is registered with the U.S. EPA as a supplier of manifests (for example, states, waste handlers, and/or commercial forms printers).
In the international shipments block, the importer must check the import box and enter the point of entry (city and state) into the United States.

The importer must provide the transporter with an additional copy of the manifest to be submitted by the receiving facility to U.S. EPA in accordance with WAC 173-303-370(3).

3 Empty containers. For the purposes of this chapter, a person who stores, treats, disposes, transports, or offers for transport empty containers of dangerous waste that were for (his) their own use will not be treated as a generator or as a facility owner/operator if the containers are empty as defined in WAC 173-303-160(2), and either:

(a) The rinsate is not a dangerous waste under this chapter; or

(b) ((He)) They reuse((e)) the rinsate in a manner consistent with the original product or, if ((he is)) they are a farmer and the rinsate contains pesticide residues, ((he)) they reuse((e)) or manage((e)) the rinsate in a manner consistent with the instructions on the pesticide label, provided that when the label instructions specify disposal or burial, such disposal or burial must be on the farmer's own (including rented, leased or tenanted) property.

4 Tank cars. A person rinsing out dangerous waste tote tanks, truck or railroad tank cars must handle the rinsate according to this chapter, and according to chapter 90.48 RCW, Water pollution control.

AMENDATORY SECTION (Amending WSR 15-01-123, filed 12/18/14, effective 1/18/15)

WAC 173-303-235 Alternative requirements for eligible academic laboratories. (1) The following definitions apply to this section:

(a) ("Authorized representative" means the person responsible for the overall operation of a facility or an operational unit (i.e., part of a facility), e.g., the plant manager, superintendent or person of equivalent responsibility.

(b) "Central accumulation area" means an on-site dangerous waste accumulation area subject to either WAC 173-303-200 (large quantity generators) or 173-303-201 (persons who generate more than two hundred twenty pounds but less than two thousand two hundred pounds per calendar month of dangerous waste). A central accumulation area at an eligible academic entity that chooses to be subject to this section must also comply with subsection (12) of this section when accumulating unwanted material and/or dangerous waste.

(He)) "College/university" means a private or public, postsecondary, degree-granting, academic institution, that is accredited by an accrediting agency listed annually by the U.S. Department of Education.

(He)) (b) "Eligible academic entity" means a college or university, or a nonprofit research institute that is owned by or has a formal written affiliation agreement with a college or university, or a teaching hospital that is owned by or has a formal written affiliation agreement with a college or university.

(He)) (c) "Formal written affiliation agreement" for a nonprofit research institute means a written document that establishes a relationship between institutions for the purposes of research and/or education and is signed by authorized representatives from each institution. A relationship on a project-by-project or grant-by-grant basis
is not considered a formal written affiliation agreement. A formal written affiliation agreement for a teaching hospital means a master affiliation agreement and program letter of agreement, as defined by the Accreditation Council for Graduate Medical Education, with an accredited medical program or medical school.

((((d)) )) (d) "Laboratory" means an area owned by an eligible academic entity where relatively small quantities of chemicals and other substances are used on a nonproduction basis for teaching or research (or diagnostic purposes at a teaching hospital) and are stored and used in containers that are easily manipulated by one person. Photolaboratories, art studios, and field laboratories are considered laboratories. Areas such as chemical stockrooms and preparatory laboratories that provide a support function to teaching or research laboratories (or diagnostic laboratories at teaching hospitals) are also considered laboratories.

(((e)) ) (e) "Laboratory clean-out" means an evaluation of the inventory of chemicals and other materials in a laboratory that are no longer needed or that have expired and the subsequent removal of those chemicals or other unwanted materials from the laboratory. A clean-out may occur for several reasons. It may be on a routine basis (e.g., at the end of a semester or academic year) or as a result of a renovation, relocation, or change in laboratory supervisor/occupant. A regularly scheduled removal of unwanted material as required by subsection (9) of this section does not qualify as a laboratory clean-out.

((f)) (f) "Laboratory worker" means a person who handles chemicals and/or unwanted material in a laboratory and may include, but is not limited to, faculty, staff, postdoctoral fellows, interns, researchers, technicians, supervisors/managers, and principal investigators. A person does not need to be paid or otherwise compensated for their work in the laboratory to be considered a laboratory worker. Undergraduate and graduate students in a supervised classroom setting are not laboratory workers.

(((g)) ) (g) "Nonprofit research institute" means an organization that conducts research as its primary function and files as a non-profit organization under the tax code of 26 U.S.C. 501(c)(3).

(((h)) ) (h) "Reactive acutely hazardous unwanted material" means an unwanted material that is one of the acutely hazardous chemical products listed in WAC 173-303-9903 for reactivity.

((((i)) )) (i) "Teaching hospital" means a hospital that trains students to become physicians, nurses, or other health or laboratory personnel.

((((j)) )) (j) "Trained professional" means a person who has completed the applicable dangerous waste training requirements of WAC 173-303-200 (1)(e)(i) for large quantity generators, or is knowledgeable about normal operations and emergencies in accordance with WAC (173-303-201(2)(c)) 173-303-172 (12)(c) for generators regulated under WAC (173-303-201) 173-303-172 and small quantity generators. A trained professional may be an employee of the eligible academic entity or may be a contractor or vendor who meets the requisite training requirements.

(((k)) ) (k) "Unwanted material" means any chemical, mixtures of chemicals, products of experiments or other material from a laboratory that is no longer needed, wanted or usable in the laboratory and that is destined for dangerous waste determination by a trained professional. Unwanted materials include reactive acutely hazardous unwanted materials and materials that may eventually be determined not to be solid waste pursuant to WAC 173-303-016, or a dangerous waste pursuant to
to WAC 173-303-070((2))). If an eligible academic entity elects to use another equally effective term in lieu of unwanted material, as allowed by subsection (7)(a)(i)(A) of this section, the equally effective term has the same meaning and is subject to the same requirements as unwanted material under this section.

"Working container" means a small container (i.e., two gallons or less) that is in use at a laboratory bench, hood, or other work station, to collect unwanted material from a laboratory experiment or procedure.

(2) Purpose and applicability.
(a) Large quantity generators and medium quantity generators (regulated under WAC 173-303-201)). This section provides alternative requirements to the requirements in WAC 173-303-070(3) and 173-303-174 for the dangerous waste determination and accumulation of dangerous waste in laboratories owned by eligible academic entities that choose to be subject to this section, provided that they complete the notification requirements in subsection (4) of this section.

(b) Small quantity generators. This section provides alternative requirements to the conditional exemption in WAC 173-303-171 for the accumulation of dangerous waste in laboratories owned by eligible academic entities that choose to be subject to this section, provided that they complete the notification requirements of subsection (4) of this section.

(3) This section is optional.
(a) Large quantity generators and medium quantity generators (regulated under WAC 173-303-201): Eligible academic entities have the option of complying with this section with respect to its laboratories, as an alternative to complying with the requirements of WAC 173-303-070(3) and 173-303-174.

(b) Small quantity generators: Eligible academic entities have the option of complying with this section with respect to its laboratories, as an alternative to complying with the conditional exemption of WAC 173-303-171.

(4) How an eligible academic entity indicates it will be subject to the requirements of this section.
(a) An eligible academic entity must notify the department in writing, using the Washington State Dangerous Waste Site Identification form, that it is electing to be subject to the requirements of this section for all the laboratories owned by the eligible academic entity under the same EPA/state identification number. An eligible academic entity that is a small quantity generator must notify that it is electing to be subject to the requirements of this section for all the laboratories owned by the eligible academic entities that are on-site. An eligible academic entity must submit a separate notification (Washington State Dangerous Waste Site Identification form) for each EPA/state identification number that is electing to be subject to the requirements of this section, and must submit the Washington State Dangerous Waste Site Identification form before it begins operating under this section.

(b) When submitting the Washington State Dangerous Waste Site Identification form, the eligible academic entity must completely fill out the form according to the form instructions including, but not limited to, the following fields:
(i) Reason for submittal;
(ii) Site EPA/state identification number;
(iii) Site name;
(iv) Site location information;
(v) Site land type;
(vi) North American Industry Classification System (NAICS) code(s) for the site;
(vii) Site mailing address;
(viii) Site contact person;
(ix) Operator and legal owner of the site;
(x) Type of regulated waste activity;
(xi) Certification.
(c) An eligible academic entity must keep a copy of the notification on file at the eligible academic entity for as long as its laboratories are subject to this section.
(d) A teaching hospital that is not owned by a college or university must keep a copy of its formal written affiliation agreement with a college or university on file at the teaching hospital for as long as its laboratories are subject to this section.
(e) A nonprofit research institute that is not owned by a college or university must keep a copy of its formal written affiliation agreement with a college or university on file at the nonprofit research institute for as long as its laboratories are subject to this section.
(5) How an eligible academic entity indicates it will withdraw from the requirements of this section.
(a) An eligible academic entity must notify in writing, using the Washington State Dangerous Waste Site Identification form, that it is electing to no longer be subject to the requirements of this section for all the laboratories owned by the eligible academic entity under the same EPA/state identification number and that it will comply with the requirements of WAC 173-303-070(3) and (173-303-200(2))) 173-303-174 for large quantity generators and for medium quantity generators (regulated under WAC 173-303-201). An eligible academic entity that is a small quantity generator must also notify that it is withdrawing from the requirements of this section for all the laboratories owned by the eligible academic entity that are on site under the same EPA/state identification number and that it will comply with the conditional exemption in WAC (173-303-070(8)) 173-303-171. An eligible academic entity must submit a separate notification (Washington State Dangerous Waste Site Identification form) for each EPA/state identification number that is withdrawing from the requirements of this section and must submit the Washington State Dangerous Waste Site Identification form before it begins operating under the requirements of WAC 173-303-070(3) and (173-303-200(2))) 173-303-174 for large quantity generators and for medium quantity generators ((regulated under WAC 173-303-201 or 173-303-070(8))) and WAC 173-303-171 for small quantity generators.
(b) When submitting the Washington State Dangerous Waste Site Identification form, the eligible academic entity must completely fill out the form according to the form instructions including, but not limited to, the following fields:
(i) Reason for submittal;
(ii) Site EPA/state identification number;
(iii) Site name;
(iv) Site location information;
(v) Site land type;
(vi) North American Industry Classification System (NAICS) code(s) for the site;
(vii) Site mailing address;
(viii) Site contact person;
(ix) Operator and legal owner of the site;
(x) Type of regulated waste activity;
(xi) Certification.

An eligible academic entity must keep a copy of the withdrawal notice on file at the eligible academic entity for three years from the date of the notification.

(6) Summary of the requirements of this section. An eligible academic entity that chooses to be subject to this section is not required to have interim status or a final facility Part B permit for the accumulation of unwanted material and dangerous waste in its laboratories, provided the laboratories comply with the provisions of this section and the eligible academic entity has a laboratory management plan (LMP) in accordance with subsection (15) of this section that describes how the laboratories owned by the eligible academic entity will comply with the requirements of this section.

(7) Labeling and management standards for containers of unwanted material in the laboratory. An eligible academic entity must manage containers of unwanted material while in the laboratory in accordance with the requirements in this section.

(a) Labeling: Label unwanted material as follows:

(i) The following information must be affixed or attached to the container:
   (A) The words "unwanted material" or another equally effective term that is to be used consistently by the eligible academic entity and that is identified in Part I of the laboratory management plan;
   (B) The date that the unwanted material first began accumulating in the container; and
   (C) Sufficient information to alert emergency responders to the contents of the container. Examples of information that would be sufficient to alert emergency responders to the contents of the container include, but are not limited to:
      (I) The name of the chemical(s);
      (II) The type or class of chemical, such as organic solvents or halogenated organic solvents;
      (III) The risk(s) associated with the unwanted material.
   (ii) The following information may be affixed or attached to the container, but must at a minimum be associated with the container.
      This includes information sufficient to allow a trained professional to properly identify whether an unwanted material is a solid and dangerous waste and to assign the proper dangerous waste code(s), pursuant to WAC 173-303-070(3). Examples of information that would allow a trained professional to properly identify whether an unwanted material is a solid or dangerous waste include, but are not limited to:
      (A) The name and/or description of the chemical contents or composition of the unwanted material, or, if known, the product of the chemical reaction;
      (B) Whether the unwanted material has been used or is unused;
      (C) A description of the manner in which the chemical was produced or processed, if applicable.

(b) Management of containers in the laboratory: An eligible academic entity must properly manage containers of unwanted material in the laboratory to assure safe storage of the unwanted material, to prevent leaks, spills, emissions to the air, adverse chemical reactions, and dangerous situations that may result in harm to human
Proper container management must include the following:

(i) Containers are maintained and kept in good condition and damaged containers are replaced, overpacked, or repaired;
(ii) Containers are compatible with their contents to avoid reactions between the contents and the container and are made of, or lined with, material that is compatible with the unwanted material so that the container's integrity is not impaired; and
(iii) Containers must be kept closed at all times, except:
(A) When adding, removing or bulking unwanted material;
(B) A working container may be open until the end of the procedure or work shift, or until it is full, whichever comes first, at which time the working container must either be closed or the contents emptied into a separate container that is then closed; or
(C) When venting of a container is necessary.
(I) For the proper operation of laboratory equipment, such as with in-line collection of unwanted materials from high performance liquid chromatographs; or
(II) To prevent dangerous situations, such as build-up of extreme pressure.

(8) Training. An eligible academic entity must provide training to all individuals working in a laboratory at the eligible academic entity, as follows:
(a) Training for laboratory workers and students must be commensurate with their duties so they understand the requirements in this section and can implement them.
(b) An eligible academic entity can provide training for laboratory workers and students in a variety of ways including, but not limited to:
   (i) Instruction by the professor or laboratory manager before or during an experiment;
   (ii) Formal classroom training;
   (iii) Electronic/written training;
   (iv) On-the-job training; or
   (v) Written or oral exams.
(c) An eligible academic entity that is a large quantity generator must maintain documentation for the durations specified in WAC 173-303-330(3) demonstrating training for all laboratory workers that is sufficient to determine whether laboratory workers have been trained. Examples of documentation demonstrating training can include, but are not limited to, the following:
   (i) Sign-in/attendance sheet(s) for training session(s);
   (ii) Syllabus for training session;
   (iii) Certificate of training completion; or
   (iv) Test results.
(d) A trained professional must:
   (i) Accompany the transfer of unwanted material and dangerous waste when the unwanted material and dangerous waste is removed from the laboratory; and
   (ii) Make the dangerous waste determination, pursuant to WAC 173-303-070(3), for unwanted material.

(9) Removing containers of unwanted material from the laboratory.
(a) Removing containers of unwanted material on a regular schedule. An eligible academic entity must either:
   (i) Remove all containers of unwanted material from each laboratory on a regular interval, not to exceed six months; or
(ii) Remove containers of unwanted material from each laboratory within six months of each container's accumulation start date.

(b) The eligible academic entity must specify in Part I of its laboratory management plan whether it will comply with (a)(i) or (ii) of this subsection for the regular removal of unwanted material from its laboratories.

(c) The eligible academic entity must specify in Part II of its laboratory management plan how it will comply with (a)(i) or (ii) of this subsection and develop a schedule for regular removals of unwanted material from its laboratories.

(d) Removing containers of unwanted material when volumes are exceeded.

(i) If a laboratory accumulates a total volume of unwanted material (including reactive acutely hazardous unwanted material) in excess of fifty-five gallons before the regularly scheduled removal, the eligible academic entity must ensure that all containers of unwanted material in the laboratory (including reactive acutely hazardous unwanted material):

(A) Are marked on the label that is affixed or attached to the container with the date that fifty-five gallons is exceeded; and

(B) Are removed from the laboratory within ten calendar days of the date that fifty-five gallons was exceeded, or at the next regularly scheduled removal, whichever comes first.

(ii) If a laboratory accumulates more than one quart (or 2.2 pounds) of reactive acutely hazardous unwanted material before the regularly scheduled removal, the eligible academic entity must ensure that all containers of reactive acutely hazardous unwanted material:

(A) Are marked on the label that is affixed or attached to the container with the date that one quart (or 2.2 pounds) is exceeded; and

(B) Are removed from the laboratory within ten calendar days of the date that one quart (or 2.2 pounds) was exceeded, or at the next regularly scheduled removal, whichever comes first.

(10) Where and when to make the dangerous waste determination and where to send containers of unwanted material upon removal from the laboratory.

(a) Large quantity generators and medium quantity generators (regulated under WAC 173-303-201) - An eligible academic entity must ensure that a trained professional makes a dangerous waste determination, pursuant to WAC 173-303-070(3), for unwanted material in any of the following areas:

(i) In the laboratory before the unwanted material is removed from the laboratory, in accordance with subsection (11) of this section;

(ii) Within four calendar days of arriving at an on-site central accumulation area, in accordance with subsection (12) of this section; and

(iii) Within four calendar days of arriving at an on-site interim status or permitted treatment, storage or disposal facility, in accordance with subsection (13) of this section.

(b) Small quantity generators - An eligible academic entity must ensure that a trained professional makes a dangerous waste determination, pursuant to WAC 173-303-070(3), for unwanted material in the laboratory before the unwanted material is removed from the laboratory, in accordance with subsection (11) of this section.

(11) Making the dangerous waste determination in the laboratory before the unwanted material is removed from the laboratory. If an el-
eligible academic entity makes the dangerous waste determination, pursuant to WAC 173-303-070(3), for unwanted material in the laboratory, it must comply with the following:

(a) A trained professional must make the dangerous waste determination, pursuant to WAC 173-303-070(3), before the unwanted material is removed from the laboratory.

(b) If an unwanted material is a dangerous waste, the eligible academic entity must:

(i) Write the words "hazardous waste" or "dangerous wastes" on the container label that is affixed or attached to the container, before the dangerous waste may be removed from the laboratory; and

(ii) Write the appropriate dangerous waste code(s) on the label that is associated with the container (or on the label that is affixed or attached to the container, if that is preferred) before the dangerous waste is transported off-site; and

(iii) Count the dangerous waste toward the eligible academic entity's generator status, pursuant to WAC ((173-303-070 (7)(e) and (d)) 173-303-169, in the calendar month that the dangerous waste determination was made.

(c) A trained professional must accompany all dangerous waste that is transferred from the laboratory(ies) to an on-site central accumulation area or on-site interim status or permitted treatment, storage or disposal facility.

(d) When dangerous hazardous waste is removed from the laboratory:

(i) Large quantity generators and medium quantity generators (regulated under WAC 173-303-201)) must ensure it is taken directly from the laboratory(ies) to an on-site central accumulation area, or on-site interim status or permitted treatment, storage or disposal facility, or transported off-site.

(ii) Small quantity generators must ensure it is taken directly from the laboratory(ies) to any of the types of facilities listed in WAC ((173-303-070 (8)(b)))) 173-303-171 (1)(e) for dangerous waste.

(e) An unwanted material that is a dangerous waste is subject to all applicable dangerous waste regulations when it is removed from the laboratory.

(12) Making the dangerous waste determination at an on-site central accumulation area. If an eligible academic entity makes the dangerous waste determination, pursuant to WAC 173-303-070(3), for unwanted material at an on-site central accumulation area, it must comply with the following:

(a) A trained professional must accompany all unwanted material that is transferred from the laboratory(ies) to an on-site central accumulation area.

(b) All unwanted material removed from the laboratory(ies) must be taken directly from the laboratory(ies) to the on-site central accumulation area.

(c) The unwanted material becomes subject to the generator accumulation regulations of WAC 173-303-200 (((1)(b)(i))) for large quantity generators or WAC ((173-303-201 and 173-303-202 for)) 173-303-172 for medium quantity generators (regulated under WAC 173-303-201)) as soon as it arrives in the central accumulation area.

(d) A trained professional must determine, pursuant to WAC 173-303-070(3), if the unwanted material is a dangerous waste within four calendar days of the unwanted materials' arrival at the on-site central accumulation area.
(e) If the unwanted material is a dangerous waste, the eligible academic entity must:

(i) Write the words "hazardous waste" or "dangerous waste" on the container label that is affixed or attached to the container, within four calendar days of arriving at the on-site central accumulation area and before the dangerous waste may be removed from the on-site central accumulation area;

(ii) Write the appropriate dangerous waste code(s) on the container label that is associated with the container (or on the label that is affixed or attached to the container, if that is preferred) before the dangerous waste may be treated or disposed of on-site or transported off-site;

(iii) Count the dangerous waste toward the eligible academic entity's generator status, pursuant to WAC ((173-303-070 (7)(c) and (d))) 173-303-169 in the calendar month that the dangerous waste determination was made; and

(iv) Manage the dangerous waste according to all applicable dangerous waste regulations.

(13) Making the dangerous waste determination at an on-site interim status or permitted treatment, storage or disposal facility.

If an eligible academic entity makes the dangerous waste determination, pursuant to WAC 173-303-070(3), for unwanted material at an on-site interim status or permitted treatment, storage or disposal facility, it must comply with the following:

(a) A trained professional must accompany all unwanted material that is transferred from the laboratory(ies) to an on-site interim status or permitted treatment, storage or disposal facility.

(b) All unwanted material removed from the laboratory(ies) must be taken directly from the laboratory(ies) to the on-site interim status or permitted treatment, storage or disposal facility.

(c) The unwanted material becomes subject to the terms of the eligible academic entity's dangerous waste permit or interim status as soon as it arrives in the on-site treatment, storage or disposal facility.

(d) A trained professional must determine, pursuant to WAC 173-303-070(3), if the unwanted material is a dangerous waste within four calendar days of the unwanted materials' arrival at an on-site interim status or permitted treatment, storage or disposal facility.

(e) If the unwanted material is a dangerous waste, the eligible academic entity must:

(i) Write the words "hazardous waste" or "dangerous waste" on the container label that is affixed or attached to the container within four calendar days of arriving at the on-site interim status or permitted treatment, storage or disposal facility and before the dangerous waste may be removed from the on-site interim status or permitted treatment, storage or disposal facility; and

(ii) Write the appropriate dangerous waste code(s) on the container label that is associated with the container (or on the label that is affixed or attached to the container, if that is preferred) before the dangerous waste may be treated or disposed on-site or transported off-site; and

(iii) Count the dangerous waste toward the eligible academic entity's generator status, pursuant to WAC ((173-303-070 (7)(c) and (d))) 173-303-169 in the calendar month that the dangerous waste determination was made; and

(iv) Manage the dangerous waste according to all applicable dangerous waste regulations.
Laboratory clean-outs.

(a) One time per twelve-month period for each laboratory, an eligible academic entity may opt to conduct a laboratory clean-out that is subject to all the applicable requirements of this section, except that:

(i) If the volume of unwanted material in the laboratory exceeds fifty-five gallons (or one quart of liquid or 2.2 pounds of solid reactive acutely hazardous unwanted material), the eligible academic entity is not required to remove all unwanted materials from the laboratory within ten calendar days of exceeding fifty-five gallons (or one quart of liquid or 2.2 pounds of solid reactive acutely hazardous unwanted material), as required by subsection (9) of this section. Instead, the eligible academic entity must remove all unwanted materials from the laboratory within thirty calendar days from the start of the laboratory clean-out; and

(ii) For the purposes of on-site accumulation, an eligible academic entity is not required to count a dangerous waste that is an unused commercial chemical product (listed in WAC 173-303-9903, or exhibiting one or more characteristics in WAC 173-303-090 or exhibits a state criteria in WAC 173-303-100) generated solely during the laboratory clean-out toward its dangerous waste generator status, pursuant to WAC ((173-303-070 (7)(c) and (d))) 173-303-169. An unwanted material that is generated prior to the beginning of the laboratory clean-out and is still in the laboratory at the time the laboratory clean-out commences must be counted toward dangerous waste generator status, pursuant to WAC ((173-303-070 (7)(c) and (d)) 173-303-169, if it is determined to be dangerous waste;

(iii) For the purposes of off-site management, an eligible academic entity must count all its dangerous waste, regardless of whether the dangerous waste was counted toward generator status under (a)(ii) of this subsection, and if it generates more than 2.2 pounds/month of acute hazardous waste, more than 2.2 pounds of WTo1 EHW or more than two hundred twenty pounds/month of dangerous waste, the dangerous waste is subject to all applicable dangerous waste regulations when it is transported off-site; and

(iv) An eligible academic entity must document the activities of the laboratory clean-out. The documentation must, at a minimum, identify the laboratory being cleaned out, the date the laboratory clean-out begins and ends, and the volume of dangerous waste generated during the laboratory clean-out. The eligible academic entity must maintain the records for a period of five years from the date the clean-out ends; and

(b) For all other laboratory clean-outs conducted during the same twelve-month period, an eligible academic entity is subject to all the applicable requirements of this section including, but not limited to:

(i) The requirement to remove all unwanted materials from the laboratory within ten calendar days of exceeding fifty-five gallons (or one quart of reactive acutely hazardous unwanted material), as required by subsection (9) of this section; and

(ii) The requirement to count all dangerous waste, including unused dangerous waste, generated during the laboratory clean-out toward its dangerous waste generator status, pursuant to WAC ((173-303-070 (7)(c) and (d))) 173-303-169.

(15) Laboratory management plan. An eligible academic entity must develop and retain a written laboratory management plan, or revise an existing written plan. The laboratory management plan is a site-specific document that describes how the eligible academic entity will
manage unwanted materials in compliance with this section. An eligible academic entity may write one laboratory management plan for all the laboratories owned by the eligible academic entity that have opted into this section, even if the laboratories are located at sites with different EPA/state identification numbers. The laboratory management plan must contain two parts with a total of nine elements identified in (a) and (b) of this subsection. In Part I of its laboratory management plan, an eligible academic entity must describe its procedures for each of the elements listed in (a) of this subsection. An eligible academic entity must implement and comply with the specific provisions that it develops to address the elements in Part I of the laboratory management plan. In Part II of its laboratory management plan, an eligible academic entity must describe its best management practices for each of the elements listed in (b) of this subsection. The specific actions taken by an eligible academic entity to implement each element in Part II of its laboratory management plan may vary from the procedures described in the eligible academic entity's laboratory management plan, without constituting a violation of this section. An eligible academic entity may include additional elements and best management practices in Part II of its laboratory management plan if it chooses.

(a) The eligible academic entity must implement and comply with the specific provisions of Part I of its laboratory management plan. In Part I of its laboratory management plan, an eligible academic entity must:

(i) Describe procedures for container labeling in accordance with subsection (7)(a) of this section, as follows:

(A) Identifying whether the eligible academic entity will use the term "unwanted material" on the containers in the laboratory. If not, identify an equally effective term that will be used in lieu of "unwanted material" and consistently by the eligible academic entity. The equally effective term, if used, has the same meaning and is subject to the same requirements as "unwanted material."

(B) Identifying the manner in which information that is "associated with the container" will be imparted.

(ii) Identify whether the eligible academic entity will comply with subsection (9)(a)(i) or (ii) of this section for regularly scheduled removals of unwanted material from the laboratory.

(b) In Part II of its laboratory management plan, an eligible academic entity must:

(i) Describe its intended best practices for container labeling and management (see the required standards in subsection (7) of this section).

(ii) Describe its intended best practices for providing training for laboratory workers and students commensurate with their duties (see the required standards in subsection (8)(a) of this section).

(iii) Describe its intended best practices for providing training to ensure safe on-site transfers of unwanted material and hazardous waste by trained professionals (see the required standards in subsection (8)(d)(i) of this section).

(iv) Describe its intended best practices for removing unwanted material from the laboratory, including:

(A) For regularly scheduled removals - Develop a regular schedule for identifying and removing unwanted materials from its laboratories (see the required standards in subsection (9)(a)(i) and (ii) of this section).

(B) For removals when maximum volumes are exceeded:
I) Describe its intended best practices for removing unwanted materials from the laboratory within ten calendar days when unwanted materials have exceeded their maximum volumes (see the required standards in subsection (9)(d) of this section).

II) Describe its intended best practices for communicating that unwanted materials have exceeded their maximum volumes.

V) Describe its intended best practices for making dangerous waste determinations, including specifying the duties of the individuals involved in the process (see the required standards in WAC 173-303-070((47)) (3) and subsections (10) through (13) of this section).

VI) Describe its intended best practices for laboratory clean-outs, if the eligible academic entity plans to use the incentives for laboratory clean-outs provided in subsection (14) of this section, including:

(A) Procedures for conducting laboratory clean-outs (see the required standards in subsection (14)(a)(i) through (iii) of this section); and

(B) Procedures for documenting laboratory clean-outs (see the required standards in subsection (14)(a)(iv) of this section).

VII) Describe its intended best practices for emergency prevention, including:

(A) Procedures for emergency prevention, notification, and response, appropriate to the hazards in the laboratory;

(B) A list of chemicals that the eligible academic entity has, or is likely to have, that become more dangerous when they exceed their expiration date and/or as they degrade;

(C) Procedures to safely dispose of chemicals that become more dangerous when they exceed their expiration date and/or as they degrade; and

(D) Procedures for the timely designation of unknown chemicals.

C) An eligible academic entity must make its laboratory management plan available to laboratory workers, students, or any others at the eligible academic entity who request it.

D) An eligible academic entity must review and revise its laboratory management plan, as needed.

16) Unwanted material that is not solid or dangerous waste.

(a) If an unwanted material does not meet the definition of solid waste in WAC 173-303-016, it is no longer subject to this section or to the dangerous waste regulations.

(b) If an unwanted material does not meet the definition of dangerous waste in WAC 173-303-070((2)), it is no longer subject to this subsection or to the dangerous waste regulations, but must be managed in compliance with any other applicable regulations and/or conditions.

17) Nonlaboratory dangerous waste generated at an eligible academic entity. An eligible academic entity that generates dangerous waste outside of a laboratory is not eligible to manage that dangerous waste under this section; and

(a) Remains subject to the generator requirements of WAC 173-303-070(3), 173-303-170, 173-303-172 for medium quantity generators, and 173-303-200((4)) through 173-303-201 for large quantity generators and (generators regulated under WAC 173-303-201 and) all other applicable generator requirements of chapter 173-303 WAC, with respect to that dangerous waste; or
Remains subject to the conditional exemption of WAC 173-303-070(8) 173-303-171 for small quantity generators, with respect to that dangerous waste.

AMENDATORY SECTION (Amending WSR 15-01-123, filed 12/18/14, effective 1/18/15)

WAC 173-303-240 Requirements for transporters of dangerous waste. (1) Applicability. This section establishes standards that apply to persons transporting dangerous waste and transporters who own or lease and operate a transfer facility.

(2) A transporter must have a current EPA/state ID#. Transporters must comply with the notification and identification requirements of WAC 173-303-060. A transporter who has previously obtained an EPA/state ID# in another state is not required to obtain a new ID# when operating in Washington state. Transporters who must comply with the generator requirements as a result of a spill at a transfer facility or during transport must obtain a separate generator EPA/state ID# for the spill.

(3) Any person who transports a dangerous waste must comply with the requirements of WAC 173-303-240 through 173-303-270, when the dangerous waste must be manifested in accordance with WAC 173-303-180.

(4) Any person who transports a dangerous waste must also comply with the requirements of WAC 173-303-170 through 173-303-230 for generators, if they:
   (a) Transport dangerous waste into the state from another country; or
   (b) Mix dangerous waste of different United States DOT shipping descriptions by mixing them into a single container.

(5) These requirements do not apply to on-site (as defined in WAC 173-303-040) transportation of dangerous waste by generators, or by owners or operators of permitted TSD facilities.

(6) Transfer facility. The requirements of this subsection apply to a transporter or marine terminal operator who owns or leases and operates a transfer facility. Transfer of a shipment of dangerous waste from one transport vehicle to another transport vehicle, from one container to another container, and from one transporter to another transporter and any ten-day storage activities may only occur at a transfer facility that is registered with the department. A transporter may store manifested shipments of dangerous waste in containers meeting the requirements of WAC 173-303-190 (1), (2), (3), and (5) for ten days or less at a transfer facility, without complying with the final facility requirements of WAC 173-303-600 and without obtaining a storage permit under WAC 173-303-800, provided that they comply with the following:
   (a) A transporter who owns or leases and operates a transfer facility within Washington that is related to their dangerous waste transportation activities must register with the department. Washington registration is not required for a transporter whose activities are limited to passing through Washington with shipments of dangerous waste or picking up shipments from Washington generators or delivering shipments to designated treatment, storage or disposal facilities. In order to obtain registration, a transporter must complete a Dangerous
Waste Site Identification Form according to the instructions and submit it to the department;

(b) Maintains ten-day storage records that include the dates that a manifested shipment of dangerous waste entered the facility and departed the facility. The ten-day records must be retained for a period of three years from the date the shipment was transported from the transfer facility;

(c) WAC 173-303-310 (1) and (2)\[(\tau)\] (Security). Instead of WAC 173-303-310(2) for an enclosed or an open flatbed transport vehicle parked at a transfer facility that has no twenty-four-hour surveillance system or natural or artificial barrier, the transport vehicle must meet the placarding requirements of 49 C.F.R. Part 172 and be secured (that is, locked) or the shipment must be transferred to a secured area of the facility to prevent unknowing entry and minimize unauthorized entry;

(d) WAC 173-303-320\[(\tau)\] General inspection. Instead of keeping inspection records for a period of five years from the date of inspection in WAC 173-303-320 (2)(d), inspection records must be kept at the transfer facility for one year from the date of inspection;

(e) WAC 173-303-330\[(\tau)\] Personnel training;

(f) WAC 173-303-340\[(\tau)\] Preparedness and prevention except WAC 173-303-340(3)\[(\tau)\] (Aisle space);

(g) WAC 173-303-350\[(\tau)\] Contingency plan and emergency procedures;

(h) WAC 173-303-360\[(\tau)\] Emergencies;

(i) WAC 173-303-630 (2), (3), (4), (5)(a) and (b), (8), (9)(a) and (b) and (10)\[(\tau)\] (Use and management of containers). In addition, when consolidating the contents of two or more containers with the same dangerous waste into a container, or when combining and consolidating two different dangerous wastes that are compatible with each other, the transporter must label or mark each container in accordance with WAC 173-303-630(3) and with the applicable dangerous waste number(s) (dangerous waste codes);

(j) WAC 173-303-630(7) in areas where waste is transferred from container to container and in areas where containers are stored outside in the weather. The secondary containment system must be completed by October 15, 2001. The department may, on a case-by-case basis, grant an extension to the required completion date if the transporter has a design and has entered into binding financial or other agreements for construction prior to October 15, 2001;

(k) The requirements of WAC 173-303-630(7) may be required in areas other than those described in WAC 173-303-240 (6)(j) if the department determines that there is a potential threat to public health and the environment due to the nature of the wastes being stored or due to a history of spills or releases from waste stored in containers.

(7) Transporter exemptions. A transporter will not be required to comply with the following:

(a) The requirements of WAC 173-303-240(6) in the event of an emergency or other unforeseen event beyond the reasonable control of the transporter during transit over public highway, rail track or water route and the waste shipment is loaded, reloaded or transferred to another transport vehicle or container to facilitate transportation;

(b) The requirements of WAC 173-303-240 (6)(i) and (j) for dangerous waste that is stored in a secured, enclosed transport vehicle, intermodal container or portable tank during the time it is parked at a transfer facility;
(c) The requirements of WAC 173-303-240 (6)(i) and (j) for a transfer facility that is located at a pier, dock or barge unloading facility and associated with the loading and unloading of water vessels: Provided, That the dangerous waste shipment is stored within a transport unit, as defined under 49 C.F.R. Part 176, and accepted by the approval authority of the United States Coast Guard;

(d) The requirements of WAC 173-303-240 (6)(j) for dangerous waste that is stored within a building: Provided, That the floor is compatible with and sufficiently impervious to the waste stored and is designed and operated so that any release or spill will be captured within the building and will prevent any waste from migrating to the soil, groundwater or surface water.

(8) A transporter who accumulates or stores manifested shipments of dangerous waste for more than ten days at a transfer facility is subject to the dangerous waste management facility general requirements and permit requirements of this chapter with respect to the storage of those wastes.

(9) Reference to WAC 173-303-200 in 173-303-240(4) does not constitute authority for storage in excess of ten days for a transporter who owns or leases and operates a transfer facility.

(10) The regulations in WAC 173-303-250 through 173-303-260 do not apply to transportation during an explosives or munitions emergency response, conducted in accordance with WAC 173-303-400 (2)(c)(xiii)(A)(IV) or (xiii)(D) or WAC 173-303-600 (3)(p)(i)(D) or (3)(p)(iv), and WAC 173-303-800 (7)(c)(i)(C) or (D).

(11) A transporter of hazardous waste subject to the manifesting requirements of WAC 173-303-180 or to the universal waste management standards of WAC 173-303-573, that is being imported from or exported to any (off the countries listed in 40 C.F.R. 262.58 (a)(I))) other country for purposes of recovery or disposal is subject to this section and to all other relevant requirements of 40 C.F.R. Subpart H of Part 262(IV)) including, but not limited to, 40 C.F.R. 262.83 and 262.84 for movement documents. 40 C.F.R. Subpart H is incorporated by reference at WAC 173-303-230(1).

AMENDATORY SECTION (Amending WSR 09-14-105, filed 6/30/09, effective 7/31/09)

WAC 173-303-250 Dangerous waste acceptance, transport, and delivery. (1)(a) A transporter may not accept dangerous waste from a generator unless the transporter is also provided with a manifest signed in accordance with WAC 173-303-180(3)(I)) (Manifest procedures) or is provided with an electronic manifest that is obtained, completed, and transmitted in accordance with WAC 173-303-180(9) and signed with a valid and enforceable electronic signature as described in WAC 173-303-180(11).

(b) (In the case of exports other than those)) Exports. For exports of dangerous waste subject to 40 C.F.R. 262 Subpart H (part 262)) (which is incorporated by reference at WAC 173-303-230(1)), a transporter may not accept such waste ((from a primary exporter or other person if he knows the shipment does not conform to the EPA Acknowledgment of Consent; and unless, in addition to a manifest signed by the generator as provided in this section, the transporter must also be provided with an EPA Acknowledgment of Consent which, except for
shipment by rail, is attached to the manifest (or shipping paper for exports by water (bulk shipment)). For exports of hazardous waste subject to the requirements of 40 C.F.R. subpart H part 262, a transporter may not accept hazardous waste without a tracking document that includes all information required by 40 C.F.R. 262.84) without a manifest signed by the generator in accordance with this section, as appropriate, and for exports occurring under the terms of a consent issued by EPA on or after December 31, 2016, a movement document that includes all information required by 40 C.F.R. Part 262.83(d).

(2) Before transporting a dangerous waste shipment, the transporter must sign and date the manifest, acknowledging acceptance of the dangerous waste. The transporter must return a signed copy to the generator before commencing transport.

(3) The transporter must insure that the manifest accompanies the dangerous waste shipment. In the case of exports occurring under the terms of a consent issued by EPA to the exporter on or after December 31, 2016, the transporter must ensure that a movement document that includes all information required by 40 C.F.R. Part 262.83(d) also accompanies the dangerous waste. In the case of imports occurring under the terms of a consent issued by EPA to the country of export or the importer on or after December 31, 2016, the transporter must ensure that a movement document that includes all information required by 40 C.F.R. Part 262.84(d) also accompanies the dangerous waste.

(4) A transporter who delivers a dangerous waste to another transporter, or to the designated facility must:
   (a) Obtain the date of delivery and the handwritten signature of that transporter or designated facility owner/operator on the manifest;
   (b) Retain one copy of the manifest in accordance with WAC 173-303-260, Transporter recordkeeping; and
   (c) Give the remaining copies of the manifest to the accepting transporter or designated facility.

(5) The transporter must deliver the entire quantity of dangerous waste which (he has) they have accepted from a generator or a transporter to:
   (a) The designated facility listed on the manifest; or
   (b) The alternate designated facility, if the dangerous waste cannot be delivered to the designated facility because an emergency prevents delivery; or
   (c) The next designated transporter; or
   (d) The place outside the United States designated by the generator.

(6)(a) If the dangerous waste cannot be delivered in accordance with subsection (5) of this section because of an emergency condition other than rejection of the waste by the designated facility, then the transporter must contact the generator for further directions and must revise the manifest according to the generator's instructions.

   (b) If dangerous waste is rejected by the designated facility while the transporter is on the facility's premises, then the transporter must obtain the following:
      (i) For a partial load rejection or for regulated quantities of container residues, a copy of the original manifest that includes the facility's date and signature, and the manifest tracking number of the new manifest that will accompany the shipment, and a description of the partial rejection or container residue in the discrepancy block of the original manifest. The transporter must retain a copy of this manifest in accordance with WAC 173-303-260, and give the remaining cop-
ies of the original manifest to the rejecting designated facility. If the transporter is forwarding the rejected part of the shipment or a regulated container residue to an alternate facility or returning it to the generator, the transporter must obtain a new manifest to accompany the shipment, and the new manifest must include all of the information required in WAC 173-303-370 (5)(e)(i) through (vi) or 173-303-370 (5)(f)(i) through (vi).

(ii) For a full load rejection that will be taken back by the transporter, a copy of the original manifest that includes the rejecting facility’s signature and date attesting to the rejection, the description of the rejection in the discrepancy block of the manifest, and the name, address, phone number, and identification number for the alternate facility or generator to whom the shipment must be delivered. The transporter must retain a copy of the manifest in accordance with WAC 173-303-260, and give a copy of the manifest containing this information to the rejecting designated facility. If the original manifest is not used, then the transporter must obtain a new manifest for the shipment and comply with WAC 173-303-370 (5)(e)(i) through (vi).

(7) The requirements of subsections (3), (4), and (8) of this section do not apply to water (bulk shipment) transporters if:

(a) The dangerous waste is delivered by water (bulk shipment) to the designated facility; and
(b) A shipping paper containing all the information required on the manifest (excluding the EPA/state identification numbers, generator certification, and signatures) and, for exports or imports occurring under the terms of a consent issued by EPA on or after December 31, 2016, a movement document that includes all information required by 40 C.F.R. part 262.83(d) or 262.84(d) accompanies the dangerous waste; and
(c) The delivering transporter obtains the date of delivery and handwritten signature of the owner or operator of the designated facility on either the manifest or the shipping paper; and
(d) The person delivering the dangerous waste to the initial water (bulk shipment) transporter obtains the date of delivery and signature of the water (bulk shipment) transporter on the manifest and forwards it to the designated facility; and
(e) A copy of the shipping paper or manifest is retained by each water (bulk shipment) transporter in accordance with WAC 173-303-260(2).

(8) For shipments involving rail transportation, the requirements of subsections (3), (4), and (7) of this section do not apply and the following requirements do apply.

(a) When accepting dangerous waste from a nonrail transporter, the initial rail transporter must:
(i) Sign and date the manifest acknowledging acceptance of the dangerous waste;
(ii) Return a signed copy of the manifest to the nonrail transporter;
(iii) Forward at least three copies of the manifest to:
(A) The next nonrail transporter, if any; or
(B) The designated facility, if the shipment is delivered to that facility by rail; or
(C) The last rail transporter designated to handle the waste in the United States;
(iv) Retain one copy of the manifest and rail shipping paper in accordance with WAC 173-303-260(2).
(b) Rail transporters must ensure that a shipping paper containing all the information required on the manifest (excluding the EPA/state identification numbers, generator certification, and signatures) and, for exports or imports occurring under the terms of a consent issued by EPA on or after December 31, 2016, a movement document that includes all information required by 40 C.F.R. Part 262.83(d) or 262.84(d) accompanies the dangerous waste at all times. (Note: Intermediate rail transporters are not required to sign the manifest, movement document, or shipping paper.)

(c) When delivering dangerous waste to the designated facility, a rail transporter must:

(i) Obtain the date of delivery and handwritten signature of the owner or operator of the designated facility on the manifest or the shipping paper (if the manifest has not been received by the facility); and

(ii) Retain a copy of the manifest or signed shipping paper in accordance with WAC 173-303-260(2).

(d) When delivering dangerous waste to a nonrail transporter a rail transporter must:

(i) Obtain the date of delivery and the handwritten signature of the next nonrail transporter on the manifest; and

(ii) Retain a copy of the manifest in accordance with WAC 173-303-260(2).

(e) Before accepting dangerous waste from a rail transporter, a nonrail transporter must sign and date the manifest and provide a copy to the rail transporter.

(9) Transporters who transport dangerous waste out of the United States must:

(a) Sign and date the manifest in the international shipments block to indicate the date that the shipment left the United States;

(b) Retain one copy in accordance with WAC 173-303-260(3), Transporter recordkeeping;

(c) Return a signed copy of the manifest to the generator; and

(d) For paper manifest only:

(i) Send a copy of the manifest to the e-Manifest system in accordance with the allowable methods specified in WAC 173-303-370 (2)(e); and

(ii) For shipments initiated prior to the automated export system (AES) filing compliance date, when instructed by the exporter to do so, give a copy of the manifest to a U.S. Customs official at the point of departure from the United States.

(10) Use of electronic manifest.

(a) Legal equivalence to paper forms for participating transporters. Electronic manifests that are obtained, completed, and transmitted in accordance with WAC 173-303-180(9) and used in accordance with this section are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy for all purposes any requirement in this section to obtain, complete, sign, provide, give, use or retain a manifest.

(i) Any requirement in this section to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of WAC 173-303-180(11).

(ii) Any requirement in this section to give, provide, send, forward, or return to another person a copy of the manifest is satisfied when an electronic manifest is transmitted to the other person by submission to the e-Manifest system.
(iii) Any requirement in this section for a manifest to accompany a dangerous waste shipment is satisfied when a copy of an electronic manifest is accessible during transportation and forwarded to the person or persons who are scheduled to receive delivery of the waste shipment, except that to the extent that the hazardous materials regulation on shipping papers for carriage by public highway requires transporters of hazardous materials to carry a paper document to comply with 40 C.F.R. Part 177.817, a dangerous waste transporter must carry one printed copy of the electronic manifest on the transport vehicle. In addition, the one printed copy of the electronic manifest must provide the information required in WAC 173-303-180(6) for state-only dangerous waste that designates only by the criteria under WAC 173-303-100.

(iv) Any requirement in this section for a transporter to keep or retain a copy of each manifest is satisfied by retention of a signed electronic manifest in the transporter's account on the national e-Manifest system, provided that such copies are readily available for viewing and production upon request.

(v) A transporter may not be held liable for the inability to produce an electronic manifest for inspection under this section if the transporter can demonstrate that the inability to produce the electronic manifest is due exclusively to a technical difficulty with the EPA's electronic manifest system for which the transporter bears no responsibility.

(b) A transporter may participate in the electronic manifest system either by accessing the electronic manifest system from the transporter's own electronic equipment, or by accessing the electronic manifest system from the equipment provided by a participating generator, by another transporter, or by a designated facility.

(c) Special procedures when electronic manifest is not available. If after a manifest has been originated electronically and signed electronically by the initial transporter, and the electronic manifest system should become unavailable for any reason, then:

(i) The transporter in possession of the dangerous waste when the electronic manifest becomes unavailable shall reproduce sufficient copies of the printed manifest that is carried on the transport vehicle pursuant to (a)(iii) of this subsection, or obtain and complete another paper manifest for this purpose. The transporter shall reproduce sufficient copies to provide the transporter and all subsequent waste handlers with a copy for their files, plus two additional copies that will be delivered to the designated facility with the dangerous waste.

(ii) On each printed copy, the transporter shall include a notation in the special handling and additional description space (Item 14) that the paper manifest is a replacement manifest for the manifest originated in the electronic manifest system, shall include (if not preprinted on the replacement manifest) the manifest tracking number of the electronic manifest that is replaced by the paper manifest, and shall also include a brief explanation why the electronic manifest was not available for completing the tracking of the shipment electronically.

(iii) A transporter signing a replacement manifest to acknowledge receipt of the dangerous waste must ensure that each paper copy is individually signed and that a legible handwritten ink signature appears on each copy.

(iv) From the point at which the electronic manifest is no longer available for tracking the waste shipment, the paper replacement mani-
fest copies shall be carried, signed, retained as records, and given
to a subsequent transporter or to the designated facility, following
the instructions, procedures, and requirements that apply to the use
of all other paper manifests.

(d) Special procedures for electronic signature methods undergo-
ing tests. If a transporter using an electronic manifest signs this
manifest electronically using an electronic signature method which is
undergoing pilot or demonstration tests aimed at demonstrating the
practicality or legal dependability of this signature method, then the
transporter shall sign the electronic manifest electronically and also
sign with an ink signature the transporter acknowledgment of receipt
of materials on the printed copy of the manifest that is carried on
the vehicle in accordance with (a)(iii) of this subsection. This prin-
ted copy bearing the generator's and transporter's ink signatures
shall also be presented by the transporter to the designated facility
to sign in ink to indicate the receipt of the waste materials or to
indicate discrepancies. After the owner/operator of the designated fa-
cility has signed this printed manifest copy with its ink signature,
the printed manifest copy shall be delivered to the designated facility
with the waste materials.

(e) Imposition of user fee. A transporter who is a user of the
electronic manifest may be assessed a user fee by EPA for the origina-
tion or processing of each electronic manifest. EPA shall maintain and
update from time-to-time the current schedule of electronic manifest
user fees, which shall be determined based on current and projected
system costs and level of use of the electronic manifest system. The
current schedule of electronic manifest user fees will be published as
an appendix to 40 C.F.R. Part 262, by EPA.

AMENDATORY SECTION (Amending WSR 09-14-105, filed 6/30/09, effective
7/31/09)

WAC 173-303-270 Discharges during transport. In the event of a
spill or discharge of dangerous waste during transportation, the
transporter must comply with the requirements of WAC 173-303-145,
Spills and discharges into the environment. In addition to the notices
required by WAC 173-303-145, the transporter must provide the follow-
ing notifications:

(1) Give notice to the generator of the waste that a discharge
has occurred;

(2) Give notice to the National Response Center (800-424-8802 or
((202-426-2675)) 202-267-2675 or online at http://www.nrc.uscg.mil),
if required by 49 C.F.R. 171.15;

(3) Submit a written Hazardous Materials Incident Report as re-
quired by 49 C.F.R. 171.16 to the Information Systems Manager,
((PHH-63)) PHH-60, Pipeline and Hazardous Materials Safety Administra-
tion, Department of Transportation, East Building, 1200 New Jersey
Ave. S.E., Washington D.C., 20590-0001, or an electronic Hazardous Ma-
terial Incident Report to the Information System Manager,
((PHH-63, Research and Special Programs Administration)) PHH-60, Pipeline and
Hazardous Materials Safety Administration, Department of Transporta-
tion, Washington D.C., 20590-0001 at http://hazmat.dot.gov; and,

(4) For a water (bulk shipment) transporter, give the same notice
as required by 33 C.F.R. 153.203 for oil and hazardous substances.
WAC 173-303-290 Required notices. (1)(a) The facility owner or operator who is arranging to receive, or has arranged to receive, or is receiving dangerous waste from sources outside the United States must notify the appropriate regional office of the department annually, and in writing at least four weeks in advance of the date the first shipment of waste is expected to arrive at the facility. The notification must be in writing, signed by the importer and operator of the receiving facility, and include the following information:

(i) Name, street address, mailing address, and telephone number of the exporter.

(ii) Name, street address, mailing address, telephone number, and EPA/state ID number of the importer and receiving facility.

(iii) A description of the dangerous waste and the EPA/state waste numbers, U.S. DOT proper shipping name, hazard class and ID number (UN/NA) for each hazardous waste as identified in 49 C.F.R. Parts 171 through 177.

(iv) The estimated frequency or rate at which such waste is to be imported and the period of time over which such waste is to be imported.

(v) The estimated total quantity of the dangerous waste in units as specified in the instructions to the Uniform Hazardous Waste Manifest Form (8700-22).

(vi) A description of the manner by which the dangerous waste will be treated, stored, disposed of, or recycled by the receiving facility.

Upon request by the department, the importer and/or receiving facility must furnish to the department any additional information regarding the importation of dangerous waste.

(b) The owner or operator of a ((recovery)) facility that is arranging to receive, or has arranged to receive ((hazardous)), or is receiving dangerous waste subject to 40 C.F.R. Part 262, Subpart H (incorporated by reference at WAC 173-303-230(1)) ((must provide a copy of the movement document bearing all required signatures to the foreign exporter; to the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, D.C. 20460; and to the competent authorities of all other concerned countries within three working days of receipt of the shipment. The original of the signed movement document must be maintained at the facility for at least three years. In addition, such owner or operator shall, as soon as possible, but no later than thirty days after the completion of recovery and no later than one calendar year following the receipt of the hazardous waste, send a certificate of recovery to the foreign exporter and to the competent authority of the country of export and to EPA’s Office of Enforcement and Compliance Assurance at the above address by mail, email without a digital signature followed by mail, or fax followed by mail.)) from a foreign source must submit the following required notices:

(i) As per 40 C.F.R. 262.84(b), for imports where the competent authority of the country of export does not require the foreign exporter to submit to it a notification proposing export and obtain consent from EPA and the competent authorities for the countries of transit, such owner or operator of the facility, if acting as the im-
porter, must provide notification of the proposed transboundary movement in English to EPA using the allowable methods listed in 40 C.F.R. 262.84(b)(1) at least sixty days before the first shipment is expected to depart the country of export. The notification may cover up to one year of shipments of wastes having similar physical and chemical characteristics, the same United Nations classification, the same RCRA waste codes and OECD waste codes, and being sent from the same foreign exporter.

(ii) As per 40 C.F.R. 262.84(d)(2)(xv), a copy of the movement document bearing all required signatures within three working days of receipt of the shipment to the foreign exporter; to the competent authorities of the countries of export and transit that control the shipment as an export and transit shipment of hazardous waste respectively; and on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system. The original of the signed movement document must be maintained at the facility for at least three years. The owner or operator of a facility may satisfy this recordkeeping requirement by retaining electronically submitted documents in the facility's account on EPA's Waste Import Export Tracking System (WIETS), or its successor system, provided that copies are readily available for viewing and production if requested by any EPA or authorized state inspector. No owner or operator of a facility may be held liable for the inability to produce the documents for inspection under this section if the owner or operator of a facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with EPA's Waste Import Export Tracking System (WIETS), or its successor system for which the owner or operator of a facility bears no responsibility.

(iii) As per 40 C.F.R. 262.84(f)(4), if the facility has physical control of the waste and it must be sent to an alternate facility or returned to the country of export, such owner or operator of the facility must inform EPA, using the allowable methods listed in 40 C.F.R. 262.84(b)(1) of the need to return or arrange alternate management of the shipment.

(iv) As per 40 C.F.R. 262.84(g), such owner or operator shall:

(A) Send copies of the signed and dated confirmation of recovery or disposal, as soon as possible, but no later than thirty days after completing recovery or disposal on the waste in the shipment and no later than one calendar year following receipt of the waste, to the foreign exporter, to the competent authority of the country of export that controls the shipment as an export of hazardous waste, and for shipments recycled or disposed of on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system.

(B) If the facility performed any of recovery operations R12, R13, or RC16, or disposal operations D13 through D15, or DC17, promptly send copies of the confirmation of recovery or disposal that it receives from the final recovery or disposal facility within one year of shipment delivery to the final recovery or disposal facility that performed one of recovery operations R1 through R11, or RC16, or one of disposal operations D1 through D12, or DC15 to DC16, to the competent authority of the country of export that controls the shipment as an export of hazardous waste, and on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system.
The recovery and disposal operations in this paragraph are defined in 40 C.F.R. 262.81.

(2) Before transferring ownership or operation of a facility during its active life or post-closure care period, the owner or operator must notify the new owner or operator in writing of the requirements of this chapter 173-303 WAC.

(3) The owner or operator of a facility that receives dangerous waste from an off-site source (except where the owner or operator is also the generator) must inform the generator in writing that they have the appropriate permit(s) for, and will accept, the waste the generator is shipping. The owner or operator must keep a copy of this written notice as part of the operating record required under WAC 173-303-380(1).

**AMENDATORY SECTION** (Amending WSR 04-24-065, filed 11/30/04, effective 1/1/05)

**WAC 173-303-320 General inspection.** (1) The owner or operator must inspect their facility to prevent malfunctions and deterioration, operator errors, and discharges which may cause or lead to the release of dangerous waste constituents to the environment, or a threat to human health. The owner or operator must conduct these inspections often enough to identify problems in time to correct them before they harm human health or the environment.

(2) The owner or operator must develop and follow a written schedule for inspecting all monitoring equipment, safety and emergency equipment, security devices, and operating and structural equipment that help prevent, detect, or respond to hazards to the public health or the environment. In addition:
   (a) The schedule must be kept at the facility;
   (b) The schedule must identify the types of problems which are to be looked for during inspections;
   (c) The schedule must indicate the frequency of inspection for specific items. The frequency should be based on the rate of possible deterioration of equipment, and the probability of an environmental or human health incident. Areas subject to spills, such as loading and unloading areas, must be inspected daily when in use. At a minimum the inspection schedule must also include the applicable items and frequencies required for the specific waste management methods described in 40 C.F.R. Part 265 Subparts F through R, 265.1033, 265.1052, 265.1053, 265.1058 and 265.1084 through 265.1090, for interim status facilities and in WAC 173-303-630 through 173-303-680, and 40 C.F.R. 264.1033, 264.1052, 264.1053, 264.1058 and 264.1083 through 264.1089 for final status facilities and be submitted with Part B of the permit application. The department will evaluate the schedule along with the rest of the application to ensure that it adequately protects human health and the environment. As part of the review, the department may modify or amend the schedule as may be necessary; and
   (d) The owner or operator must keep a written or electronic inspection log or summary, including at least the date and time of the inspection, the printed name and the handwritten or electronic signature of the inspector, a notation of the observations made, an account of spills or discharges in accordance with WAC 173-303-145, and the date and nature of any repairs or remedial actions taken. The
log or summary must be kept at the facility for at least five years from the date of inspection.

(3) The owner or operator must remedy any problems revealed by the inspection, on a schedule which prevents hazards to the public health and environment. Where a hazard is imminent or has already occurred, remedial action must be taken immediately.

AMENDATORY SECTION (Amending WSR 15-01-123, filed 12/18/14, effective 1/18/15)

WAC 173-303-350 Contingency plan and emergency procedures. (1) Purpose. The purpose of this section and WAC 173-303-360 is to lessen the potential impact on the public health and the environment in the event of any emergency (circumstances) event, including, but not limited to, a fire, natural disaster, explosion, or unplanned sudden or nonsudden release of dangerous waste, hazardous substance, or dangerous waste constituents to air, soil, surface water, or groundwater by a facility. A contingency plan must be developed to lessen the potential impacts of such emergency (circumstances) event, and the plan must be implemented immediately whenever such an emergency (circumstances) event occurs.

(2) Contingency plan. Each owner or operator must have a contingency plan at their facility for use in emergencies or any sudden or nonsudden releases which threaten human health and the environment. If the owner or operator has already prepared a spill prevention control and countermeasures (SPCC) plan in accordance with Part 112 of Title 40 C.F.R., or some other emergency or contingency plan, they need only amend that plan to incorporate dangerous waste management provisions that are sufficient to comply with the requirements of this section and WAC 173-303-360. The owner or operator may develop one contingency plan that meets all regulatory requirements. Ecology recommends that the plan be based on the National Response Team's Integrated Contingency Plan Guidance ("One Plan") (as found at www.nrt.org). When modifications are made to nondangerous waste (non-Hazardous Waste Management Act or nondangerous waste regulation) provisions in an integrated contingency plan, the changes do not trigger the need for a dangerous waste permit modification.

(3) The contingency plan must contain the following:

(a) A description of the actions which facility personnel must take to comply with this section and WAC 173-303-360;

(b) A description of the actions which will be taken in the event that a dangerous waste shipment, which is damaged or otherwise presents a hazard to the public health and the environment, arrives at the facility, and is not acceptable to the owner or operator, but cannot be transported, pursuant to the requirements of WAC 173-303-370(6), Manifest system, reasons for not accepting dangerous waste shipments;

(c) A description of the arrangements agreed to by local police departments, fire departments, hospitals, contractors, and state and local emergency response teams to coordinate emergency services as required in WAC 173-303-340(4);

(d) A current list of names, addresses, and phone numbers (office and home) of all persons qualified to act as the emergency coordinator required under WAC 173-303-360(1). Where more than one person is lis-
ted, one must be named as primary emergency coordinator, and others must be listed in the order in which they will assume responsibility as alternates. For new facilities only, this list may be provided to the department at the time of facility certification (as required by WAC 173-303-810 (14)(a)(i)), rather than as part of the permit application;

(e) A list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems, and decontamination equipment), where this equipment is required. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list, and a brief outline of its capabilities; and

(f) An evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. This plan must describe the signal(s) to be used to begin evacuation, evacuation routes, and alternate evacuation routes.

(4) Copies of contingency plan. A copy of the contingency plan and all revisions to the plan must be:
   (a) Maintained at the facility; and
   (b) Submitted to all local police departments, fire departments, hospitals, and state and local emergency response teams that may be called upon to provide emergency services.

(5) Amendments. The owner or operator must review and immediately amend the contingency plan, if necessary, whenever:
   (a) Applicable regulations or the facility permit are revised;
   (b) The plan fails in an emergency;
   (c) The facility changes (in its design, construction, operation, maintenance, or other circumstances) in a way that materially increases the potential for fires, explosions, or releases of dangerous waste or dangerous waste constituents, or in a way that changes the response necessary in an emergency;
   (d) The list of emergency coordinators changes; or
   (e) The list of emergency equipment changes.

AMENDATORY SECTION (Amending WSR 00-11-040, filed 5/10/00, effective 6/10/00)

WAC 173-303-360 Emergencies. (1) Emergency coordinator. At all times, there must be at least one employee either on the facility premises or on call (that is, available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures. This emergency coordinator must be thoroughly familiar with all aspects of the facility's contingency plan, required by WAC 173-303-350(2), all operations and activities at the facility, the location and properties of all wastes handled, the location of all records within the facility, and the facility layout. In addition, this person must have the authority to commit the resources needed to carry out the contingency plan.

(2) Emergency procedures. The following procedures must be implemented in any emergency event identified in WAC 173-303-350.
(a) Whenever there is an imminent or actual emergency situation, the emergency coordinator (or ((his)) their designee when the emergency coordinator is on call) must immediately:

(i) Activate internal facility alarms or communication systems, where applicable, to notify all facility personnel; and

(ii) Notify appropriate state or local agencies with designated response roles if their help is needed.

(b) Whenever there is a release, fire, or explosion, the emergency coordinator must immediately identify the character, exact source, amount, and areal extent of any released materials.

(c) Concurrently, the emergency coordinator must assess possible hazards to human health and the environment (considering direct, indirect, immediate, and long-term effects) that may result from the release, fire, or explosion.

(d) If the emergency coordinator determines that the facility has had a release, fire, or explosion which could threaten human health or the environment, ((he)) they must report ((his)) their findings as follows:

(i) If ((his)) their assessment indicates that evacuation of local areas may be advisable, ((he)) they must immediately notify appropriate local authorities. ((He)) They must be available to help appropriate officials decide whether local areas should be evacuated; and

(ii) ((He)) They must immediately notify the department and either the government official designated as the on-scene coordinator, or the National Response Center (using their 24-hour toll free number (800) 424-8802).

(e) ((His)) Their assessment report must include:

(i) Name and telephone number of reporter;

(ii) Name and address of facility;

(iii) Time and type of incident (e.g., release, fire);

(iv) Name and quantity of material(s) involved, to the extent known;

(v) The extent of injuries, if any; and

(vi) The possible hazards to human health or the environment outside the facility.

(f) During an emergency, the emergency coordinator must take all reasonable measures necessary to ensure that fires, explosions, and releases do not occur, recur, or spread to other dangerous waste at the facility. These measures must include, where applicable, stopping processes and operations, collecting and containing released waste, and removing or isolating containers.

(g) If the facility stops operations in response to a fire, explosion, or release, the emergency coordinator must monitor for leaks, pressure buildup, gas generation, or ruptures in valves, pipes, or other equipment, wherever this is appropriate.

(h) Immediately after an emergency, the emergency coordinator must provide for treating, storing, or disposing of recovered waste, contaminated soil or surface water, or any other material that results from a release, fire, or explosion at the facility.

(i) The emergency coordinator must ensure that, in the affected area(s) of the facility:

(i) No waste that may be incompatible with the released material is treated, stored, or disposed of until cleanup procedures are completed; and

(ii) All emergency equipment listed in the contingency plan is cleaned and fit for its intended use before operations are resumed.
The owner or operator must notify the department, and appropriate local authorities, that the facility is in compliance with (i) of this subsection before operations are resumed in the affected area(s) of the facility.

(k) The owner or operator must note in the operating record the time, date, and details of any incident that requires implementing the contingency plan. Within fifteen days after the incident, (he) they must submit a written report on the incident to the department. The report must include:

(i) Name, address, and telephone number of the owner or operator;
(ii) Name, address, and telephone number of the facility;
(iii) Date, time, and type of incident (e.g., fire, explosion);
(iv) Name and quantity of material(s) involved;
(v) The extent of injuries, if any;
(vi) An assessment of actual or potential hazards to human health or the environment, where this is applicable;
(vii) Estimated quantity and disposition of recovered material that resulted from the incident;
(viii) Cause of incident; and
(ix) Description of corrective action taken to prevent reoccurrence of the incident.

AMENDATORY SECTION (Amending WSR 15-01-123, filed 12/18/14, effective 1/18/15)

WAC 173-303-370 Manifest system. (1) Applicability. The requirements of this section apply to owners and operators of permitted treatment, storage, and disposal facilities and of dangerous waste recycling facilities operating under the requirements of this chapter who receive dangerous waste from off-site sources or who initiate a shipment of dangerous waste off-site. If a facility receives dangerous waste accompanied by a manifest, the owner, operator, or (his/her) their agent must sign and date the manifest as indicated in subsection (2) of this section to certify that the dangerous waste covered by the manifest was received, that the dangerous waste was received except as noted in the discrepancy space of the manifest, or that the dangerous waste was rejected as noted in the manifest discrepancy space.

(2) If a facility receives dangerous waste shipment accompanied by a manifest, the owner, operator, or their agent, must:

(a) Sign and date, by hand, each copy of the manifest;
(b) Note any discrepancies (as defined in subsection (5)(a) of this section) on each copy of the manifest;
(c) Immediately give the transporter at least one copy of the manifest;
(d) Within thirty days of delivery, send a copy of the manifest to the generator; ((and))
(e) Within thirty days of delivery, send the top copy (Page 1) of the manifest to the electronic manifest system for purposes of data entry and processing. In lieu of mailing this paper copy to the electronic manifest system operator, the owner or operator may transmit to the system operator an image file of Page 1 of the manifest, or both a data string file and the image file corresponding to Page 1 of the manifest. Any data or image files transmitted to EPA under this subsection must be submitted in data file and image file formats that are
acceptable to EPA and that are supported by EPA's electronic reporting requirements and by the electronic manifest system; and

(f) Retain at the facility a copy of each manifest for at least three years from the date of delivery.

(3) [(If a facility receives hazardous waste imported from a foreign source, the receiving facility must mail a copy of the manifest and documentation confirming EPA's consent to the import of hazardous waste to the following address within thirty days of delivery: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460.)] The owner or operator of a facility receiving dangerous waste subject to 40 C.F.R. Part 262, Subpart H (as incorporated by reference at WAC 173-303-230(1)) from a foreign source must:

(a) Additionally list the relevant consent number from consent documentation supplied by EPA to the facility for each waste listed on the manifest, matched to the relevant list number for the waste from block 9b. If additional space is needed, the owner or operator should use a Continuation Sheet(s) (EPA Form 8700-22A); and

(b) Send a copy of the manifest within thirty days of delivery to EPA using the addresses listed in 40 C.F.R. 262.82(e) until the facility can submit such a copy to the e-Manifest system per subsection (2)(e) of this section.

(4) If a facility receives, from a rail or water (bulk shipment) transporter, dangerous waste which is accompanied by a manifest or shipping paper containing all the information required on the manifest (excluding the EPA/state identification numbers, generator's certification, and signatures), the owner or operator, or (his or her) their agent, must:

(a) Sign and date each copy of the manifest or shipping paper to certify that the dangerous waste covered by the manifest or shipping paper was received;

(b) Note any significant discrepancies in the manifest or shipping paper, as described in subsection (5) of this section, on each copy of the manifest or shipping paper;

(c) Immediately give the rail or water (bulk shipment) transporter at least one copy of the manifest or shipping paper;

(d) Within thirty days after the delivery, send a copy of the signed and dated manifest or a signed and dated copy of the shipping paper (if the manifest has not been received within thirty days after delivery) to the generator; and

(e) Retain at the facility a copy of each shipping paper and manifest for at least three years from the date of delivery.

(5) Manifest discrepancies.

(a) Manifest discrepancies are:

(i) Significant differences (as defined in (b) of this subsection) between the quantity or type of dangerous waste designated on the manifest or shipping paper, and the quantity and type of dangerous waste a facility actually receives;

(ii) Rejected wastes, which may be a full or partial shipment of dangerous waste that the TSDF cannot accept; or

(iii) Container residues, which are residues that exceed the quantity limits for "empty" containers set forth in WAC 173-303-160(2).

(b) Significant differences in quantity are: For bulk waste, variations greater than ten percent in weight (for example, tanker trucks, railroad tank cars, etc.); for batch waste, any variations in
piece count, such as a discrepancy of one drum in a truckload. Significant differences in type are obvious differences which can be discovered by inspection or waste analysis such as waste solvent substituted for waste acid, or toxic constituents not reported on the manifest or shipping paper.

(c) Upon discovering a significant difference in quantity or type, the owner or operator must attempt to reconcile the discrepancy with the waste generator or transporter. If the discrepancy is not resolved within fifteen days after receiving the waste, the owner or operator must immediately submit to the department a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.

(d)(i) Upon rejecting waste or identifying a container residue that exceeds the quantity limits for "empty" containers set forth in WAC 173-303-160(2), the facility must consult with the generator prior to forwarding the waste to another facility that can manage the waste. If it is impossible to locate an alternative facility that can receive the waste, the facility may return the rejected waste or residue to the generator. The facility must send the waste to the alternative facility or to the generator within sixty days of the rejection or the container residue identification.

(ii) While the facility is making arrangements for forwarding rejected wastes or residues to another facility under this section, it must ensure that either the delivering transporter retains custody of the waste, or the facility must provide for secure, temporary custody of the waste, pending delivery of the waste to the first transporter designated on the manifest prepared under (e) or (f) of this subsection.

(e) Except as provided in (e)(vii) of this (section) subsection, for full or partial load rejections and residues that are to be sent off-site to an alternate facility, the facility is required to prepare a new manifest in accordance with WAC 173-303-180 and the following instructions:

(i) Write the generator's (U.S.) EPA/state ID (number)# in Item 1 of the new manifest. Write the generator's name and mailing address in Item 5 of the new manifest. If the mailing address is different from the generator's site address, then write the generator's site address in the designated space for Item 5.

(ii) Write the name of the alternate designated facility and the facility's (U.S. EPA ID number) EPA/state ID# in the designated facility block (Item 8) of the new manifest.

(iii) Copy the manifest tracking number found in Item 4 of the old manifest to the special handling and additional information block of the new manifest, and indicate that the shipment is a residue or rejected waste from the previous shipment.

(iv) Copy the manifest tracking number found in Item 4 of the new manifest to the manifest reference number line in the discrepancy block of the old manifest (Item 18a).

(v) Write the DOT description for the rejected load or the residue in Item 9 (U.S. DOT Description) of the new manifest and write the container types, quantity, and volume(s) of waste.

(vi) Sign the generator's/offorer's certification to certify, as the offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation and mail a signed copy of the manifest to the generator identified in Item 5 of the new manifest.
For full load rejections that are made while the transporter remains present at the facility, the facility may forward the rejected shipment to the alternate facility by completing Item 18b of the original manifest and supplying the information on the next destination facility in the alternate facility space. The facility must retain a copy of this manifest for its records, and then give the remaining copies of the manifest to the transporter to accompany the shipment. If the original manifest is not used, then the facility must use a new manifest and comply with (e)(i), (ii), (iii), (iv), (v), and (vi) of this subsection.

(f) Except as provided in (f)(vii) of this subsection, for rejected wastes and residues that must be sent back to the generator, the facility is required to prepare a new manifest in accordance with WAC 173-303-180 and the following instructions:

(i) Write the facility's ((U.S. EPA ID number)) EPA/state ID# in Item 1 of the new manifest. Write the facility's name and mailing address in Item 5 of the new manifest. If the mailing address is different from the facility's site address, then write the facility's site address in the designated space for Item 5 of the new manifest.

(ii) Write the name of the initial generator and the generator's ((U.S. EPA ID number)) EPA/state ID# in the designated facility block (Item 8) of the new manifest.

(iii) Copy the manifest tracking number found in Item 4 of the old manifest to the special handling and additional information block of the new manifest, and indicate that the shipment is a residue or rejected waste from the previous shipment.

(iv) Copy the manifest tracking number found in Item 4 of the new manifest to the manifest reference number line in the discrepancy block of the old manifest (Item 18a).

(v) Write the DOT description for the rejected load or the residue in Item 9 (U.S. DOT Description) of the new manifest and write the container types, quantity, and volume(s) of waste.

(vi) Sign the generator's/offeror's certification to certify, as offeror of the shipment, that the waste has been properly packaged, marked and labeled and is in proper condition for transportation.

(vii) For full load rejections that are made while the transporter remains at the facility, the facility may return the shipment to the generator with the original manifest by completing Item 18a and 18b of the manifest and supplying the generator's information in the alternate facility space. The facility must retain a copy for its records and then give the remaining copies of the manifest to the transporter to accompany the shipment. If the original manifest is not used, then the facility must use a new manifest and comply with (f)(i), (ii), (iii), (iv), (v), (vi), and (viii) of this subsection.

(viii) For full or partial load rejections and container residues contained in nonempty containers that are returned to the generator, the facility must also comply with the exception reporting requirements in WAC 173-303-220(2).

(g) If a facility rejects a waste or identifies a container residue that exceeds the quantity limits for "empty" containers set forth in WAC 173-303-160(2) after it has signed, dated, and returned a copy of the manifest to the delivering transporter or to the generator, the facility must amend its copy of the manifest to indicate the rejected wastes or residues in the discrepancy space of the amended manifest. The facility must also copy the manifest tracking number from Item 4 of the new manifest to the discrepancy space of the amended manifest, and must re-sign and date the manifest to certify to the information.
as amended. The facility must retain the amended manifest for at least three years from the date of amendment, and must within thirty days, send a copy of the amended manifest to the transporter and generator that received copies prior to their being amended.

(6) Reasons for not accepting dangerous waste shipments. The owner or operator may decide that a dangerous shipment should not be accepted by their facility.

(a) The following are acceptable reasons for denying receipt of a dangerous waste shipment:

(i) The facility is not capable of properly managing the type(s) of dangerous waste in the shipment;
(ii) There is a significant discrepancy (as described in subsection (5) of this section) between the shipment and the wastes listed on the manifest or shipping paper; or
(iii) The shipment has arrived in a condition which the owner or operator believes would present an unreasonable hazard to facility operations, or to facility personnel handling the dangerous waste(s) (including, but not limited to, leaking or damaged containers, and improperly labeled containers).

(b) The owner or operator may send the shipment on to the alternate facility designated on the manifest or shipping paper, or contact the generator to identify another facility capable of handling the waste and provide for its delivery to that other facility, unless, the containers are damaged to such an extent, or the dangerous waste is in such a condition as to present a hazard to the public health or the environment in the process of further transportation.

(c) If the dangerous waste shipment cannot leave the facility for the reasons described in (b) of this subsection, then the owner or operator must take those actions described in the contingency plan, WAC 173-303-350 (3)(b).

(7) Within three working days of the receipt of a shipment subject to 40 C.F.R. Part 262, Subpart H (which is incorporated by reference at WAC 173-303-230(1)), the owner or operator of the facility must provide a copy of the movement document bearing all required signatures to the foreign exporter; to the competent authorities of the countries of export and transit that control the shipment as an export and transit of dangerous waste respectively; and on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system. The original copy of the movement document must be maintained at the facility for at least three years from the date of signature. The owner or operator of a facility may satisfy this recordkeeping requirement by retaining electronically submitted documents in the facility's account on EPA's WIETS, or its successor system, provided that copies are readily available for viewing and production if requested by any EPA or authorized state inspector. No owner or operator of a facility may be held liable for the inability to produce the documents for inspection under this section if the owner or operator of a facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with EPA's WIETS, or its successor system, for which the owner or operator of a facility bears no responsibility.
(8) A facility must determine whether the consignment state for a shipment regulates any additional wastes (beyond those regulated federally) as hazardous wastes under its state hazardous waste program. Facilities must also determine whether the consignment state or generator state requires the facility to submit any copies of the manifest to these states.

(9) Whenever a shipment of dangerous waste is initiated from a facility, the owner or operator of that facility must comply with the requirements of this chapter. The provisions of WAC 173-303-172, 173-303-174, and 173-303-200 through 173-303-201 of this chapter are applicable to the on-site accumulation of dangerous waste by generators. Therefore, the provisions of WAC 173-303-170, 173-303-172, 173-303-174, and 173-303-200 through 173-303-201 of this chapter only apply to owners or operators who are shipping dangerous waste which they generated at that facility or operating as a large quantity generator consolidating dangerous waste from small quantity generators under WAC 173-303-200.

(10) Use of electronic manifest.

(a) Legal equivalence to paper manifests. Electronic manifests that are obtained, completed, and transmitted in accordance with WAC 173-303-180 and used in accordance with this section in lieu of the paper manifest form are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy for all purposes any requirement in this section to obtain, complete, sign, provide, use or retain a manifest.

(i) Any requirement in this section for the owner or operator of a facility to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of WAC 173-303-180(11).

(ii) Any requirement in this section to give, provide, send, forward, or return to another person a copy of the manifest is satisfied when an electronic manifest is transmitted to the other person by submission to the e-Manifest system.

(iii) Any requirement in this section for a manifest to accompany a dangerous waste shipment is satisfied when a copy of an electronic manifest is accessible during transportation and forwarded to the person or persons who are scheduled to receive delivery of the dangerous waste shipment.

(iv) Any requirement in this section for an owner or operator of a facility to keep or retain a copy of each manifest is satisfied by retention of the facility's electronic manifest copies in its account on the national e-Manifest system, provided that such copies are readily available for viewing and production upon request.

(v) An owner or operator of a facility may not be held liable for the inability to produce an electronic manifest for inspection under this section if the owner or operator can demonstrate that the inability to produce the electronic manifest is due exclusively to a technical difficulty with the EPA's electronic manifest system for which the owner or operator bears no responsibility.

(b) An owner or operator may participate in the electronic manifest system either by accessing the electronic manifest system from the owner's or operator's electronic equipment, or by accessing the electronic manifest system from portable equipment brought to the owner's or operator's site by the transporter who delivers the waste shipment to the facility.
(c) Special procedures applicable to replacement manifests. If a facility receives dangerous waste that is accompanied by a paper replacement manifest for a manifest that was originated electronically, the following procedures apply to the delivery of the dangerous waste by the final transporter:

(i) Upon delivery of the dangerous waste to the designated facility, the owner or operator must sign and date each copy of the paper replacement manifest by hand in Item 20 (Designated Facility Certification or Receipt) and note any discrepancies in Item 18 (Discrepancy Indication Space) of the replacement manifest;

(ii) The owner or operator of the facility must give back to the final transporter one copy of the paper replacement manifest;

(iii) Within thirty days of delivery of the dangerous waste to the designated facility, the owner or operator of the facility must send one signed and dated copy of the paper replacement manifest to the generator, and send an additional signed and dated copy of the paper replacement manifest to the EPA e-Manifest system; and

(iv) The owner or operator of the facility must retain at the facility one copy of the paper replacement manifest for at least five years from the date of delivery.

(d) Special procedures for electronic signature methods undergoing tests. If an owner or operator using an electronic manifest signs this manifest electronically using an electronic signature method which is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of this signature method, then the owner or operator shall also sign with an ink signature the facility's certification of receipt or discrepancies on the printed copy of the manifest provided by the transporter. Upon executing its ink signature on this printed copy, the owner or operator shall retain this original copy for at least five years from the date of delivery of the waste.

(e) Imposition of user fee. An owner or operator who is a user of the electronic manifest may be assessed a user fee by EPA for the origination and processing of each electronic manifest. An owner or operator may also be assessed a user fee by EPA for the collection and processing of paper manifest copies that owners or operators must submit to the electronic manifest system operator under subsection (2)(e) of this section. EPA shall maintain and update from time-to-time the current schedule of electronic manifest user fees, which shall be determined based on current and projected system costs and level of use of the electronic manifest system. The current schedule of electronic manifest user fees will be published as an appendix to 40 C.F.R. Part 262, by EPA.

(f) Electronic manifest signatures. Electronic manifest signatures shall meet the criteria described in WAC 173-303-180(11).

AMENDATORY SECTION (Amending WSR 15-01-123, filed 12/18/14, effective 1/18/15)

WAC 173-303-380 Facility recordkeeping. (1) Operating record. The owner or operator of a facility must keep a written operating record at their facility. The following information must be recorded, as it becomes available, and maintained in the operating record until closure of the facility:
A description of and the quantity of each dangerous waste received or managed on-site, and the method(s) and date(s) of its treatment, storage, or disposal at the facility as required by subsection (2) of this section, recordkeeping instructions;

(b) The location of each dangerous waste within the facility and the quantity at each location. For disposal facilities, the location and quantity of each dangerous waste must be recorded on a map or diagram of each cell or disposal area. For all facilities, this information must include cross-references to specific manifest document numbers, if the waste was accompanied by a manifest;

(c) Records and results of waste analyses, waste determinations (as required by 40 C.F.R. Parts 264 and 265, Subpart CC), and trial tests required by WAC 173-303-300, General waste analysis, and by 40 C.F.R. sections 264.1034, 264.1063, 264.1083, 265.1034, 265.1063, 265.1084, 268.4(a), and 268.7. Note that data from laboratory analyses for 40 C.F.R. 268.4(a) and 268.7 must meet the requirements of WAC 173-303-110;

(d) Summary reports and details of all incidents that require implementing the contingency plan, as specified in WAC 173-303-360 (2)(k);

(e) Records and results of inspections as required by WAC 173-303-320 (2)(d), General inspection (except such information need be kept only for five years);


(g) All closure and post-closure cost estimates required for the facility;

(h) For off-site facilities, copies of notices to generators informing them that the facility has all appropriate permits, as required by WAC 173-303-290, Required notices;

(i) Records of the quantities (and date of placement) for each shipment of hazardous waste placed in land disposal units under an extension to the effective date of any land disposal restriction granted pursuant to 40 C.F.R. 268.5, a petition pursuant to 40 C.F.R. 268.6, and the applicable notice required by a generator under 40 C.F.R. 268.7(a);

(j) For an off-site treatment facility, a copy of the notice, and the certification and demonstration, if applicable, required by the generator or the owner or operator under 40 C.F.R. 268.7;

(K) For an on-site treatment facility, the information contained in the notice (except the manifest number), and the certification and demonstration if applicable, required by the generator or the owner or operator under 40 C.F.R. 268.7;

(l) For an off-site land disposal facility, a copy of the notice, and the certification and demonstration if applicable, required by the
generator or the owner or operator of a treatment facility under 40 C.F.R. 268.7;

(m) For an on-site land disposal facility, the information contained in the notice required by the generator or owner or operator of a treatment facility under 40 C.F.R. 268.7, except for the manifest number;

(n) For an off-site storage facility, a copy of the notice, and the certification and demonstration if applicable, required by the generator or the owner or operator under 40 C.F.R. 268.7;

(o) For an on-site storage facility, the information contained in the notice (except the manifest number), and the certification and demonstration if applicable, required by the generator or the owner or operator under 40 C.F.R. 268.7;

(p) Any records required under WAC 173-303-280(6);

(q) A certification by the permittee no less often than annually, that the permittee has a program in place to reduce the volume and toxicity of hazardous waste that they generate to the degree determined by the permittee to be economically practicable; and the proposed method of treatment, storage or disposal is that practicable method currently available to the permittee which minimizes the present and future threat to human health and the environment; and

(r) Certifications of major repairs to tank systems as required by WAC 173-303-640 (7)(f).

(2) Recordkeeping instructions. This subsection provides instructions for recording the portions of the operating record which are related to describing the types, quantities, and management of dangerous wastes at the facility. This information must be recorded, as it becomes available, and maintained in the operating record until closure of the facility, as follows:

(a) Each dangerous waste received, treated, stored, or disposed of at the facility must be described by its common name and by its dangerous waste number(s) from WAC 173-303-080 through 173-303-104. Each listed, characteristic, and criteria waste has its own four-digit dangerous waste number. Where a dangerous waste contains more than one process waste or waste constituent the waste description must include all applicable dangerous waste numbers. If the dangerous waste number is not listed in WAC 173-303-9903 or 173-303-9904, the waste description must include the process which generated the waste;

(b) The waste description must include the waste's physical form (i.e., liquid, solid, sludge, or contained gas);

(c) The estimated or manifest-reported weight, or volume and density, where applicable, of the dangerous waste must be recorded, using one of the units of measure specified in Table 1, below; and

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<tr>
<td>Tons (2000 lbs)</td>
<td>M</td>
</tr>
</tbody>
</table>

Footnote: Single-digit symbols are used here for data processing purposes.

(d) The method(s) (by handling code(s)) of management for each dangerous waste received or managed, and the date(s) of treatment, recycling, storage, or disposal must be recorded, using the handling code(s) specified in Table 2, below.

Table 2
Handling Codes for Treatment, Storage, and Disposal Methods
Enter the handling code(s) listed below that most closely represents the technique(s) used at the facility to treat, store, or dispose of each quantity of dangerous waste received.

1. Storage
   S01 Container (barrel, drum, etc.)
   S02 Tank
   S03 Waste pile
   S04 Surface impoundment
   S05 Drip Pad
   S06 Containment Building (Storage)
   S99 Other storage (specify)

2. Treatment
   (a) Thermal Treatment
       T06 Liquid injection incinerator
       T07 Rotary kiln incinerator
       T08 Fluidized bed incinerator
       T09 Multiple hearth incinerator
       T10 Infrared furnace incinerator
       T11 Molten salt destructor
       T12 Pyrolysis
       T13 Wet air oxidation
       T14 Calcination
       T15 Microwave discharge
       T18 Other (specify)
   (b) Chemical treatment
       T19 Absorption mound
       T20 Absorption field
       T21 Chemical fixation
       T22 Chemical oxidation
       T23 Chemical precipitation
       T24 Chemical reduction
T25 Chlorination
T26 Chlorinolysis
T27 Cyanide destruction
T28 Degradation
T29 Detoxification
T30 Ion exchange
T31 Neutralization
T32 Ozonation
T33 Photolysis
T34 Other (specify)

(c) Physical treatment
(i) Separation of components
T35 Centrifugation
T36 Clarification
T37 Coagulation
T38 Decanting
T39 Encapsulation
T40 Filtration
T41 Flocculation
T42 Flotation
T43 Foaming
T44 Sedimentation
T45 Thickening
T46 Ultrafiltration
T47 Other (specify)

(ii) Removal of specific components
T48 Absorption-molecular sieve
T49 Activated carbon
T50 Blending
T51 Catalysis
T52 Crystallization
T53 Dialysis
T54 Distillation
T55 Electrodialysis
T56 Electrolysis
T57 Evaporation
T58 High gradient magnetic separation
T59 Leaching
T60 Liquid ion exchange
T61 Liquid-liquid extraction
T62 Reverse osmosis
T63 Solvent recovery
T64 Stripping
T65 Sand filter
T66 Other (specify)

(d) Biological treatment
T67 Activated sludge
T68 Aerobic lagoon
T69 Aerobic tank
T70 Anaerobic tank
T71 Composting
T72 Septic tank
T73 Spray irrigation
T74 Thickening filter
T75 Trickling filter
T76 Waste stabilization pond
T77 Other (specify)
Boilers and industrial furnaces

T80 Boiler
T81 Cement kiln
T82 Lime kiln
T83 Aggregate kiln
T84 Phosphate kiln
T85 Coke oven
T86 Blast furnace
T87 Smelting, melting, or refining furnace
T88 Titanium dioxide chloride process oxidation reactor
T89 Methane reforming furnace
T90 Pulping liquor recovery furnace
T91 Combustion device used in the recovery of sulfur values from spent sulfuric acid
T92 Halogen acid furnaces
T93 Other industrial furnaces listed in WAC 173-303-040 (specify)

Other treatment

T94 Containment building (treatment)

3. Disposal

D79 Underground injection
D80 Landfill
D81 Land treatment
D82 Ocean disposal
D83 Surface impoundment
    (to be closed as a landfill)
D99 Other disposal (specify)

4. Miscellaneous (Subpart X)

X01 Open burning/open detonation
X02 Mechanical processing
X03 Thermal unit
X04 Geologic repository
X99 Other Subpart X (specify)

(3) Availability, retention and disposition of records.

(a) All facility records, including plans, required by this chapter must be furnished upon request, and made available at all reasonable times for inspection, by any officer, employee, or representative of the department who is designated by the director.

(b) The retention period for all facility records required under this chapter is extended automatically during the course of any unresolved enforcement action regarding the facility or as requested by the director.

(c) A copy of records of waste disposal locations and quantities under this section must be submitted to the United States EPA regional administrator, the department, and the local land use and planning authority upon closure of the facility.
WAC 173-303-395 Other general requirements. (1) Precautions for ignitable, reactive, or incompatible wastes.

(a) The owner or operator must take precautions to prevent accidental ignition or reaction of ignitable or reactive waste. This waste must be separated and protected from sources of ignition or reaction including, but not limited to, open flames, smoking, cutting and welding, hot surfaces, frictional heat, sparks (static, electrical, or mechanical), spontaneous ignition (e.g., from heat-producing chemical reactions), and radiant heat. While ignitable or reactive waste is being handled, the owner or operator must confine smoking and open flame to specially designated locations. "No smoking" signs must be conspicuously placed wherever there is a hazard from ignitable or reactive waste.

(b) Where specifically required by other sections of this chapter 173-303 WAC, the treatment, storage, or disposal of ignitable or reactive waste, and the mixture or commingling of incompatible wastes, or incompatible wastes and materials, must be conducted so that it does not:

(i) Generate extreme heat or pressure, fire or explosion, or violent reaction;

(ii) Produce uncontrolled toxic mists, fumes, dusts, or gases in sufficient quantities to threaten human health or the environment;

(iii) Produce uncontrolled flammable fumes or gases in sufficient quantities to pose a risk of fire or explosions;

(iv) Damage the structural integrity of the facility or device containing the waste; or

(v) Through other like means, threaten human health or the environment.

(c) When required to comply with (a) and (b) of this subsection, the owner or operator must document that compliance in the operating record required under WAC 173-303-380(1). This documentation may be based on references to published scientific or engineering literature, data from trial tests, waste analyses, or the results of the treatment of similar wastes by similar treatment processes and under similar operating conditions.

(d) At least yearly, the owner or operator must inspect those areas of their facility where ignitable or reactive wastes are stored. This inspection must be performed in the presence of a professional person who is familiar with the International Fire Code, or in the presence of the local, state, or federal fire marshal. The owner or operator must enter the following information in their inspection log or operating record as a result of this inspection:

(i) The date and time of the inspection;

(ii) The name of the professional inspector or fire marshal;

(iii) A notation of the observations made; and

(iv) Any remedial actions which were taken as a result of the inspection.

(2) Compliance with other environmental protection laws and regulations. In receiving, storing, handling, treating, processing, or disposing of dangerous wastes, the owner/operator must design, maintain and operate their dangerous waste facility in compliance with all applicable federal, state and local laws and regulations.
(e.g., control of stormwater or sanitary water discharge, control of volatile air emissions, etc.).

(3) ((Reserve.) (Reserved.))

(4) Loading and unloading areas. TSD facilities which receive or ship manifested shipments of liquid dangerous waste for treatment, storage or disposal must provide for and use an area (or areas) for loading and unloading waste shipments. The loading and unloading area(s) must be designed, constructed, operated and maintained to:

(a) Contain spills and leaks that might occur during loading or unloading;

(b) Prevent release of dangerous waste or dangerous waste constituents to ground or surface waters;

(c) Contain wash waters (if any) resulting from the cleaning of contaminated transport vehicles and load/unload equipment; and

(d) Allow for removal, as soon as possible, of collected wastes resulting from spills, leaks and equipment cleaning (if any) in a manner which assures compliance with (b) of this subsection.

(5) Storage time limit for impoundments and piles.

(a) Except as provided in (b) or (c) of this subsection, dangerous waste may not be stored in a surface impoundment or waste pile for more than five years after the waste was first placed in the impoundment or pile. For the purposes of this requirement, the five-year limit, for waste regulated under this chapter and being stored in impoundments or piles on the effective date of this requirement, will begin on August 1, 1984. The age of stored wastes must be determined on a monthly basis.

The owner/operator of a surface impoundment or waste pile used for storing dangerous waste must develop a written plan, to be kept at the facility, for complying with the five-year storage limit. The plan must describe the operating conditions, waste identification procedures (for keeping track of the age of the wastes), and a waste removal schedule, and at a minimum the plan must include the following elements:

(i) Methods for identifying the age of dangerous wastes placed in the impoundment or pile;

(ii) Where practical, procedures for segregating wastes of different ages. If the wastes cannot be practically segregated, then the age of all wastes placed in the impoundment or pile must be deemed the same as the oldest waste in the impoundment or pile;

(iii) A schedule for removing dangerous waste from the impoundment or pile, or for disposing of them in a timely manner to assure compliance with the five-year limit;

(iv) A description of the actions to be taken according to the schedule required by (a)(iii) of this subsection;

(v) Procedures for noting in the operating record required by WAC 173-303-380(1) that the requirements of this subsection have been satisfied; and

(vi) Such other requirements as the department specifies.

(b) If the owner/operator of a surface impoundment or waste pile can develop a written plan and schedule for developing and implementing a recycling or treatment process for the wastes stored in ((his)) their impoundment or pile, then the department may grant an extension to the storage time limit required in (a) of this subsection. Such extension will be granted only once, will only apply to those dangerous wastes covered by the recycling or treatment plan and which are less than five years old on the date that the plan is approved by the department, and will not exceed five years: Provided, That on a case-by-
case basis the department may grant an extension of longer than five years, but in no case will any extension be granted for longer than ten years, if the owner/operator of the impoundment or pile can demonstrate to the department's satisfaction that an extension of more than five years will not pose a threat to public health or the environment, and is necessary because: Other treatment or recycling options of shorter durations are not available; the treatment or recycling plan developed by the owner/operator cannot be implemented within five years due to technological circumstances; or, such other reasons as are determined acceptable by the department. Until the department grants the extension by approving the recycling or treatment plan, the owner/operator must continue to comply with the requirements of (a) of this subsection. The recycling or treatment plan and schedule, at a minimum, must:

(i) Specify the wastes which will be recycled or treated in accordance with the plan;
(ii) Describe in detail the recycling or treatment which the owner/operator intends to perform. If the recycling or treatment will involve physical changes to the owner's/operator's facility, the plan must include descriptions of all necessary equipment, processes to be used, site plans, and maps to show any new structures, pipes, channels, waste handling areas, roads, etc.;
(iii) Discuss any permit actions (including issuance or modification) necessary under this chapter, and any other permits which will be required under other federal, state or local laws;
(iv) Establish a schedule for complying with the plan. The schedule must, at a minimum, cover:
(A) The rate at which wastes will be recycled or treated in order to comply with the extension granted by the department;
(B) Construction and equipment installation times as appropriate;
(C) Timing for complying with all required permit actions; and
(D) Such other elements as the department might require;
(v) Describe how the owner/operator will continue to comply with the requirements of (a) of this subsection for all wastes not specified in (b)(i) of this subsection;
(vi) Identify any future occurrences or situations which the owner/operator could reasonably expect to occur and which might cause ((him)) them to fail to comply with ((his)) their recycling or treatment plan. The owner/operator must also describe what actions ((his)) they would take in the event that such occurrences or situations happen;
(vii) Be approved by the department. The plan may not be implemented until it is approved by the department including, if necessary, issuance or modification of a facility permit as required by this chapter. Any extension granted by the department will begin on the date that the plan is approved, or the date five years after the effective date of this subsection, whichever is later; and
(viii) Include any other elements that the department might require.
(c) The owner/operator of a surface impoundment or waste pile is exempted from the requirements of (a) and (b) of this subsection if:
(i) The owner/operator of a surface impoundment or waste pile can demonstrate to the department's satisfaction that the impoundment or pile is not used primarily for storage, but that it is primarily used to actively and effectively neutralize, detoxify, or other wise treat dangerous waste; or
The owner/operator of a surface impoundment or waste pile can demonstrate to the department's satisfaction that dangerous waste is removed on a frequent basis (at least four times a year) for treatment, recycling or disposal, provided that the amount of waste removed during any five-year period must equal or exceed the amount of waste placed in the impoundment or pile during that five-year period. However, this exemption does not apply to waste removal which is being performed pursuant to a recycling or treatment plan developed and approved under (b) of this subsection; or

The owner/operator of a surface impoundment or waste pile has demonstrated, through (his) their permit, closure plan or other instrument, that the impoundment or pile is being operated as a land disposal unit and that it will be closed as a landfill.

Labeling for containers and tanks. The owner or operator must label containers and tanks in a manner which adequately identifies the major risk(s) hazard(s) associated with the contents for employees, emergency response personnel and the public. (Note: If there is already a system in use that performs this function in accordance with local, state or federal regulations, then such system will be adequate). The owner or operator must ensure that labels are not obscured, removed, or otherwise unreadable in the course of inspection required under WAC 173-303-320. For tanks, the label or sign must be legible at a distance of at least fifty feet. For containers, the owner or operator must affix labels upon transfer of dangerous waste from one container to another. The owner or operator must destroy or otherwise remove labels from the emptied container, unless the container will continue to be used for storing dangerous waste at the facility.

AMENDATORY SECTION (Amending WSR 15-01-123, filed 12/18/14, effective 1/18/15)

WAC 173-303-400 Interim status facility standards. (1) Purpose. The purpose of WAC 173-303-400 is to establish standards which define the acceptable management of dangerous waste during the period of interim status and until certification of final closure or, if the facility is subject to post-closure requirements, until post-closure responsibilities are fulfilled.

(2) Applicability.

(a) Except as provided in 40 C.F.R. 265.1080(b), the interim status standards apply to owners and operators of facilities that treat, store, transfer, and/or dispose of dangerous waste. For purposes of this section, interim status applies to all facilities that comply fully with the requirements for interim status under Section 3005(e) of the Federal Resource Conservation and Recovery Act or WAC 173-303-805. The interim status standards also apply to those owners and operators of facilities in existence on November 19, 1980, for RCRA wastes and those facilities in existence on August 9, 1982, for state only wastes who have failed to provide the required notification pursuant to WAC 173-303-060 or failed to file Part A of the permit application pursuant to WAC 173-303-805 (4) and (5). Interim status will end after final administrative disposition of the Part B permit application is completed, or may be terminated for the causes described in WAC 173-303-805(8).
(b) Interim status facilities must meet the interim status standards by November 19, 1980, except that:
   (i) Interim status facilities which handle only state designated wastes (that is, not designated by 40 C.F.R. Part 261) must meet the interim status standards by August 9, 1982; and
   (ii) Interim status facilities must comply with the additional state interim status requirements specified in subsection (3)(c)(ii), (iii) and (v), of this section, by August 9, 1982.
(c) The requirements of the interim status standards do not apply to:
   (i) Persons disposing of dangerous waste subject to a permit issued under the Marine Protection, Research and Sanctuaries Act;
   (ii) The owner or operator of a facility managing recyclable materials described in WAC 173-303-120 (2), (3), and (5) (except to the extent that they are referred to in WAC 173-303-515 or 173-303-505, 173-303-520, 173-303-525, or 40 C.F.R. Part 266 Subpart H);
   (iii) The owner or operator of a POTW who treats, stores, or disposes of dangerous wastes, provided that ((he has)) they have a permit by rule pursuant to the requirements of WAC 173-303-802(4);
   (iv) The owner or operator of a totally enclosed treatment facility or elementary neutralization or wastewater treatment units as defined in WAC 173-303-040, provided that ((he has)) they have a permit by rule pursuant to the requirements of WAC 173-303-802(5);
   (v) Generators accumulating waste ((for less than ninety days except to the extent WAC 173-303-200 provides otherwise) on site in compliance with applicable conditions of WAC 173-303-171, 173-303-172, 173-303-174, 173-303-200 and 173-303-201; ((1)(b))
   (vi) The addition, by a generator, of absorbent material to waste in a container, or of waste to absorbent material in a container, provided that these actions occur at the time the waste is first placed in containers or, in the case of repackaging of previously containerized waste into new containers, at the time the waste is first placed into the new containers and the generator complies with WAC 173-303-200 ( ((1)(b)) and 173-303-201 for large quantity generators or WAC 173-303-172 for medium quantity generators, and 173-303-395 (1)(a) and (b);
   (vii) The compaction or sorting, by a generator, of miscellaneous waste forms such as cans, rags, and bottles in a container, so long as the activity is solely for the purpose of reducing waste void space, and so long as these activities are conducted in a manner that protects human health and prevents any release to the environment and the generator complies with WAC 173-303-200 ((1)(b)) and 173-303-201 for large quantity generators or WAC 173-303-172 for medium quantity generators and WAC 173-303-395 (1)(a) and (b);
   (viii) Generators treating dangerous waste on-site in tanks, containers, or containment buildings that are used for accumulation of such wastes provided the generator complies with ((the)) WAC 173-303-170 ((3)) (2)(b);
   (ix) The owner or operator of an elementary neutralization unit or a wastewater treatment unit as defined in WAC 173-303-040, provided that if the owner or operator is diluting hazardous ignitable (D001) wastes (other than the D001 High TOC Subcategory defined in 40 C.F.R. section 268.40, Table Treatment Standards for Hazardous Wastes), or reactive (D003) waste, to remove the characteristic before land disposal, the owner/operator must comply with the requirements set out in WAC 173-303-395 (1)(a); and
(x) Any person, other than an owner or operator who is already subject to the final facility standards, who is carrying out an immediate or emergency response to contain or treat a discharge or potential discharge of a dangerous waste or hazardous substance.

(xi) Universal waste handlers and universal waste transporters (as defined in WAC 173-303-040) handling the wastes listed below. These handlers are subject to regulation under WAC 173-303-573, when handling the below listed universal wastes.

(A) Batteries as described in WAC 173-303-573(2);
(B) Mercury-containing equipment as described in WAC 173-303-573(3); and
(C) Lamps as described in WAC 173-303-573(5).

(xii) WAC 173-303-578 identifies when the requirements of this section apply to the storage of military munitions classified as solid waste under WAC 173-303-578(2). The treatment and disposal of dangerous waste military munitions are subject to the applicable permitting, procedural, and technical standards in this chapter.

(xiii) (A) Except as provided in (c)(xiii)(B) of this subsection, a person engaged in treatment or containment activities during immediate response to any of the following situations:

(I) A discharge of a dangerous waste;
(II) An imminent and substantial threat of a discharge of dangerous waste;
(III) A discharge of a material that, when discharged, becomes a dangerous waste;
(IV) An immediate threat to human health, public safety, property, or the environment, from the known or suspected presence of military munitions, other explosive material, or an explosive device, as determined by an explosive or munitions emergency response specialist as defined in WAC 173-303-040.

(B) An owner or operator of a facility otherwise regulated by WAC 173-303-600 must comply with all applicable requirements of WAC 173-303-340 and 173-303-350.

(C) Any person who is covered by (c)(xiii)(A) of this section and who continues or initiates dangerous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this chapter for those activities.

(D) In the case of an explosives or munitions emergency response, if a federal, state, tribal or local official acting within the scope of (his or her) their official responsibilities, or an explosives or munitions emergency response specialist, determines that immediate removal of the material or waste is necessary to protect human health or the environment, that official or specialist may authorize the removal of the material or waste by transporters who do not have EPA/state identification numbers and without the preparation of a manifest. In the case of emergencies involving military munitions, the responding military emergency response specialist's organizational unit must retain records for three years identifying the dates of the response, the responsible persons responding, the type and description of material addressed, and its disposition.

(xiv) The owner or operator of a facility that is permitted to manage solid waste pursuant to chapter 173-350 WAC, if the only dangerous waste the facility manages is excluded from regulation under this chapter by WAC (173-303-070(8)) 173-303-171.

(xv) A farmer disposing of waste pesticides from (his) their own use provided (he complies) they comply with WAC 173-303-160 (2)(b).
(3) Standards.

(a) Interim status standards are the standards set forth by the Environmental Protection Agency in 40 C.F.R. Part 265 Section 265.19 of Subpart B, Subparts F through R, Subpart W, Subparts AA, BB, CC (including references to 40 C.F.R. Parts 60, 61, and 63), DD, EE, and Appendix VI, which are incorporated by reference into this regulation (including, by reference, any EPA requirements specified in those subparts which are not otherwise explicitly described in this chapter), and:

(i) The land disposal restrictions of WAC 173-303-140; the facility requirements of WAC 173-303-280 through 173-303-440 except WAC 173-303-335; and the corrective action requirements of WAC 173-303-646;

(ii) WAC 173-303-630(3), for containers. In addition, for container storage, the department may require that the storage area include secondary containment in accordance with WAC 173-303-630(7), if the department determines that there is a potential threat to public health or the environment due to the nature of the wastes being stored, or due to a history of spills or releases from stored containers. Any new container storage areas constructed or installed after September 30, 1986, must comply with the provisions of WAC 173-303-630(7)

(iii) WAC 173-303-640 (5)(d), for tanks; ((and))
(iv) WAC 173-303-805;
(v) WAC 173-303-060; (and)
(vi) WAC 173-303-320; and
(vii) WAC 173-303-370.

(b) For purposes of applying the interim status standards of 40 C.F.R. Part 265 Subparts F through R, Subpart W, and Subparts AA, BB, CC, DD, and EE to the state of Washington facilities, the federal terms have (and in the case of the wording used in the financial instruments referenced in Subpart H of Part 265, must be replaced with) the following state of Washington meanings:

(i) "Regional administrator" means the "department" except for 40 C.F.R. Parts 270.2; 270.3; 270.5; 270.10 (e)(1), (2) and (4); 270.10 (f) and (g); 270.11 (a)(3); 270.14 (b)(20); 270.32 (b)(2); and 270.51;

(ii) "Hazardous" means "dangerous" except for Subparts AA, BB, CC, and DD. These subparts apply only to hazardous waste as defined in WAC 173-303-040;

(iii) "Compliance procedure" has the meaning set forth in WAC 173-303-040, Definitions;

(iv) "EPA hazardous waste numbers" mean "dangerous waste numbers((and))

(v) "At least weekly, owners and operators must inspect" means "weekly inspections" as defined in WAC 173-303-040.

(c) In addition to the changes described in (b) of this subsection, the following modifications are made to interim status standards of 40 C.F.R. Part 265 Subparts F through R, Subpart W, and Subparts AA, BB, CC, DD, and EE:

(i) The words "the effective date of these regulations" means:
(A) November 19, 1980, for facilities which manage any wastes designated by 40 C.F.R. Part 261;

(B) For wastes which become designated by 40 C.F.R. Part 261 subsequent to November 19, 1980, the effective date is the date on which the wastes become regulated;
(C) March 12, 1982, for facilities which manage wastes designated only by WAC 173-303-080 through 173-303-100 and not designated by 40 C.F.R. Part 261;

(D) For wastes which become designated only by WAC 173-303-080 through 173-303-100 and not designated by 40 C.F.R. Part 261 subsequent to March 12, 1982, the effective date is the date on which the wastes become regulated.

(ii) The following sections and any cross-reference to these sections are not incorporated or adopted by reference:
(A) 40 C.F.R. Parts 260.1 (b)(4)-(6) and 260.20-22.
(B) 40 C.F.R. Parts 264.1 (d) and (f); 265.1 (c)(4); 264.149-150 and 265.149-150; 264.301(k); and 265.430.
(C) 40 C.F.R. Parts 268.5 and 6; 268 Subpart B; 268.42(b); and 268.44 (a) through (g).
(D) 40 C.F.R. Parts 270.1 (c)(1)(i); 270.60(b); and 270.64.
(E) 40 C.F.R. Parts 124.1 (b)-(e); 124.4; 124.5(e); 124.9; 124.10 (a)(1)(iv); 124.12(e); 124.14(d); 124.15 (b)(2); 124.16; 124.17(b); 124.18; 124.19; and 124.21.
(F) 40 C.F.R. Parts 2.106(b); 2.202(b); 2.205(i); 2.209 (b)-(c); 2.212-213; and 2.301-311.
(G) 40 C.F.R. 265.1080 (e) and (f).

(iii) Where 40 C.F.R. 265 Subparts F through R, W, DD, and EE have been incorporated by reference refer to 40 C.F.R. 260.11, data provided under this section must instead meet the requirements of WAC 173-303-110.

(iv) "Subpart B - general facility standards." References to "EPA" in 40 C.F.R. 265.19, means the "department." Additionally, references to "administrator" means the "director."

(v) "Subpart F - groundwater monitoring."
(A) Section 265.90 (d)(1) is modified by adding the following sentence. "A copy of the plan must be submitted to the department,"
(B) Section 265.90 (d)(3) is modified by adding the following sentence. "A copy of the plan must be submitted to the department,"
(C) Section 265.91(c) includes the requirement that: "Groundwater monitoring wells must be designed, constructed, and operated so as to prevent groundwater contamination. Chapter 173-160 WAC may be used as guidance in the installation of wells."
(D) Section 265.93 (d)(2) is modified by adding the following sentence. "A copy of the plan must be submitted to the department,"
(E) Section 265.93 (d)(5) is modified by adding the following sentence. "A copy of the report must be submitted to the department within 15 days."

(vi) "Subpart G - closure and post-closure."
(A) The third sentence in section 265.112 (d)(1) is modified to read "The owner or operator must submit the closure plan to the department at least 45 days prior to the date on which they expect to begin closure of a tank, container storage, or incinerator unit, or final closure of a facility with only such units."
(B) The sixth sentence of section 265.112 (d)(1) is modified to read "Owners or operators with approved closure plans must notify the department in writing at least 45 days prior to the date on which they expect to begin closure of a tank, container storage, or incinerator unit, or final closure of a facility with only such units." The first sentence of section 265.115 is modified to read "Within 60 days of completion of closure of each dangerous waste management unit (including tank systems and container storage areas) and within 60 days of
completion of final closure, the owner or operator must submit to the department, by registered mail or other means that establish proof of receipt (including appropriate electronic means), a certification that the dangerous waste management unit or facility, as applicable, has been closed in accordance with the specifications in the approved closure plan." In addition, the cleanup levels for removal or decontamination set forth at WAC 173-303-610 (2)(b) apply.

(C) Section 265.113 (e)(5) is modified by changing "annual reports" to "semi-annual reports."

(D) Section 265.115 is modified by changing "qualified Professional Engineer" to "independent qualified registered professional engineer."

(E) Section 265.120 is modified by changing "qualified Professional Engineer" to "independent qualified registered professional engineer."

(vii) "Subpart H - financial requirements."

(A) An additional sentence that reads: "Any owner or operator who can provide financial assurances and instruments which satisfy the requirements of WAC 173-303-620 will be deemed to be in compliance with 40 C.F.R. Part 265 Subpart H."

(B) In 40 C.F.R. Parts 265.143(g) and 265.145(g) the following sentence does not apply to the state: "If the facilities covered by the mechanisms are in more than one Region, identical evidence of financial assurance must be submitted to, and maintained with the Regional Administrators of all such Regions." Instead, the following sentence applies: "If the facilities covered by the mechanism are in more than one state, identical evidence of financial assurance must be submitted to and maintained with the state agency regulating hazardous waste or with the appropriate regional administrator if the facility is located in an unauthorized state."

(C) Section 265.143(h) is modified by changing "qualified Professional Engineer" to "independent qualified registered professional engineer."

(D) Section 265.145(h) is modified by changing "qualified Professional Engineer" to "independent qualified registered professional engineer."

(E) Section 265.147(e) is modified by changing "qualified Professional Engineer" to "independent qualified registered professional engineer."

(F) The following sections and any cross-reference to these sections are not incorporated by reference: 40 C.F.R. Parts 265.149 and 265.150;

(viii) "Subpart I use and management of containers."

Section 265.174 is modified by replacing the paragraph with the following. "The owner or operator must inspect areas where containers are stored, at least weekly, looking for leaks and for deterioration caused by corrosion or other factors."

(ix) "Subpart J - tank systems."

(A) Section 265.191(a) is modified so that the date by which an assessment of a tank system's integrity must be completed is January 12, 1990.

(B) Section 265.191(a) is modified by changing "qualified Professional Engineer" to "independent qualified registered professional engineer."

(C) Section 265.191 (b)(5)(ii) is modified by changing "qualified Professional Engineer" to "independent qualified registered professional engineer."
(D) Section 265.192(a) introductory text is modified by changing "qualified Professional Engineer" to "independent qualified registered professional engineer."

(E) Section 265.192(b) introductory text is modified by changing "qualified Professional Engineer" to "independent qualified registered professional engineer."

(F) Section 265.193(a) is modified so that the dates by which secondary containment (which meets the requirements of that section) must be provided are the same as the dates in WAC 173-303-640 (4)(a).

(G) Section 265.193 (i)(2) is modified by changing "qualified Professional Engineer" to "independent qualified registered professional engineer."

(H) Section 265.195(b) is modified by deleting the words "Except as noted under the paragraph (c) of this section."

(I) Section 265.195 is modified by deleting paragraphs (c) and (d).

(J) Section 265.196(f) is modified by changing "qualified Professional Engineer" to "independent qualified registered professional engineer" and by adding the following sentence. "A copy of the plan must be submitted to the department within seven days after returning the tank system to use."

(K) Section 265.201(c) is modified by deleting the words "Except as noted in paragraph (d) of this section."

(L) Section 265.201 is modified by deleting paragraphs (d) and (e).

(x) "Subpart K surface impoundments." Section 265.224(a) is modified by adding the following sentence. "A copy of the plan must be submitted to the department when submitting the proposed action leakage rate under section 265.222."

(xi) "Subpart L waste piles." Section 265.259(a) is modified by adding the following sentence. "A copy of the response action plan must be submitted to the department when submitting the proposed action leakage rate under section 265.255."

(xii) "Subpart M land treatment."

(A) Section 265.273(b) is modified by replacing the words "Part 261, Subpart D of this chapter" with "WAC 173-303-080;"

(B) Section 265.280(e) is modified by changing "qualified Professional Engineer" to "independent qualified registered professional engineer."

(xiii) "Subpart N - landfills."

(A) An additional sentence reads: "An owner/operator must not landfill an organic/carbonaceous waste or an EHW, as defined by WAC 173-303-080 through 173-303-100, except at the EHW facility at Hanford" as allowed under WAC 173-303-700 or as allowed under WAC 173-303-140(4).

(B) Section 265.303(a). "A copy of the response action plan must be submitted to the department when submitting the proposed action leakage rate under section 265.302."

(xiv) "Subpart O incinerators."

(xv) "Subpart P thermal treatment."

(xvi) "Subpart Q chemical, physical and biological treatment."

(xvii) "Subpart R - underground injection." An additional sentence reads: "Owners and operators of wells are prohibited from disposing of EHW or an organic carcinogen designated under WAC 173-303-080 through 173-303-100."

(xviii) "Subpart W drip pads."
(A) Section 265.441(a) is modified by changing "qualified Professional Engineer" to "independent qualified registered professional engineer."
(B) Section 265.441(b) is modified by changing "qualified Professional Engineer" to "independent qualified registered professional engineer."
(C) Section 265.441(c) is modified by changing "qualified Professional Engineer" to "independent qualified registered professional engineer."
(D) Section 265.443 (a)(4)(ii) is modified by changing "qualified Professional Engineer" to "independent qualified registered professional engineer."
(E) Section 265.443(g) is modified by changing "qualified Professional Engineer" to "independent qualified registered professional engineer."
(F) 265.444(a) is modified by changing "qualified Professional Engineer" to "independent qualified registered professional engineer."

(xix) "Subpart AA air emission standards for process vents."
(xx) "Subpart BB air emission standards for equipment leaks."
(A) Section 265.1061 is modified by adding (d) "If an owner or operator decides no longer to comply with this section, the owner or operator must notify the department in writing that the work practice standard described in 265.1057 (a) through (e) will be followed."
(B) Section 265.1061(b) is modified by adding (b)(3) "An owner or operator must notify the department that the owner or operator has elected to comply with the requirements of this section."
(C) Section 265.1062(a) is modified by adding the sentence "An owner or operator must notify the department before implementing one of the alternative work practices."

(xxi) "Subpart CC air emission standards for tanks, surface impoundments, and containers."
(xxii) "Subpart DD containment buildings."
(A) Section 265.1101 (c)(2) is modified by changing "qualified Professional Engineer" to "independent qualified registered professional engineer."
(B) Section 265.1101 (c)(3)(iii) is modified by changing "qualified registered professional engineer" to "independent qualified registered professional engineer."

(xxiii) "Subpart EE - hazardous waste munitions and explosives storage."

The first sentence at 40 C.F.R. 265.1202 is modified to exclude the exception for hazardous wastes managed under 261.3(d).
(4) The requirements of this section apply to owners or operators of all facilities that treat, store or dispose of hazardous waste referred to in 40 C.F.R. Part 268, and the 40 C.F.R. Part 268 standards are considered material conditions or requirements of the interim status standards incorporated by reference in subsection (3) of this section.
WAC 173-303-505 Special requirements for recyclable materials used in a manner constituting disposal. (1) Applicability. (Also, see WAC 173-303-120(3).)

(a) This section applies to recyclable materials that are applied to or placed on the land:
   (i) Without mixing with any other substance(s); or
   (ii) After mixing or combining with any other substance(s). These materials will be referred to as "materials used in a manner that constitutes disposal."

(b)(i) Products produced for the general public's use that are used in a manner that constitutes disposal and that contain recyclable materials are not presently subject to regulation if the recyclable materials have undergone a chemical reaction in the course of producing the products so as to become inseparable by physical means and if such products meet the applicable treatment standards in 40 C.F.R. Part 268 Subpart D (or applicable prohibition levels in 268.32 or RCRA section 3004(d), where no treatment standards have been established) for each recyclable material (i.e., hazardous waste) that they contain, and the recycler complies with 40 C.F.R. 268.7 (b)(6) as modified in WAC 173-303-140 (2)(e).

(ii) Antiskid/deicing uses of slags, which are generated from high temperature metals recovery (HTMR) processing of dangerous waste K061, K062, and F006, in a manner constituting disposal are not covered by the exemption in (b)(i) of this subsection and remain subject to regulation.

(iii) Fertilizers that contain recyclable materials are not subject to regulation provided that:
   (A) They are zinc fertilizers excluded according to WAC 173-303-071 (3)(pp); or
   (B) They meet the applicable treatment standards in subpart D of Part 268, which is incorporated by reference at WAC 173-303-140 (2)(a) for each hazardous waste that they contain.

(Note: Fertilizers that contain recyclable material derived from state-only waste must also meet the treatment standards in WAC 173-303-140 (2)(a) that apply to the characteristics of dangerous waste that the state-only waste exhibits.)

(iv) The department may recommend registration under chapter 15.54 RCW for a waste-derived fertilizer (including fertilizers that contain recyclable material) or micronutrient fertilizer: Provided, That the registrant submits the information described in (b)(iv)(A) or (B) of this subsection. However, the information requirements in (b)(iv)(A) of this subsection may not be required if: The registrant provides documentation that the fertilizer has been previously registered in Washington state two or more times using the information in (b)(iv)(A) of this subsection, and the source materials used to manufacture the product have not changed.

(A) Initial criteria.
   (I) The applicable Land Disposal Restriction (LDR) Certification as described in 40 C.F.R. Part 268, or toxicity characteristic leaching procedure (TCLP) data that indicate the product contains less than the maximum concentrations for TCLP metals described in WAC 173-303-090(8); and
(II) Total Halogenated Organic Compounds (HOC) test data that indicate the product contains less than 1% total HOC.

(B) Secondary criteria.
(1) A complete description of the fertilizer manufacturing process, including the location of the manufacturing facility; and
(II) A complete list of all ingredients used in manufacturing the fertilizer and a complete description of the sources of those ingredients, including a description of the original process and location for each of those ingredients; and
(III) Evidence that any waste(s) used in manufacturing the product does not designate as dangerous waste according to procedures described in WAC 173-303-070; and
(IV) Other information as required by the department.

(2) Recyclable materials used in a manner that constitutes disposal are dangerous wastes and are subject to the following requirements:
(a) For generators, WAC 173-303-170 through 173-303-230;
(b) For transporters, WAC 173-303-240 through 173-303-270; and
(c) For facilities that store or use dangerous wastes in a manner constituting disposal, the applicable requirements of 40 C.F.R. Part 268 (incorporated by reference in WAC 173-303-140 (2)(a)) and 173-303-280 through 173-303-840 (except that users of such products are not subject to these standards if the products meet the requirements of subsection (1)(b) of this section).
(d) The use of waste oil, used oil, or other material that is contaminated with dioxin or any other dangerous waste for dust suppression or road treatment is prohibited.

AMENDATORY SECTION (Amending WSR 09-14-105, filed 6/30/09, effective 7/31/09)

WAC 173-303-510 Special requirements for dangerous wastes burned for energy recovery. (1) Applicability. (Also, see WAC 173-303-120(3).)
(a) This section applies to generators, marketers, transporters, blenders, and burners of dangerous waste fuels that are to be burned for energy recovery in any boiler or industrial furnace that is not regulated under Subpart O of 40 C.F.R. Part 265 or WAC 173-303-670, except as provided by (b) of this subsection. These regulations do not apply to gas recovered from dangerous waste management activities when such gas is burned for energy recovery. Note: (This note is a reminder that all generators, transporters, and burners of federally regulated hazardous waste fuels that are to be burned for energy recovery, and all storage facility owners and operators of facilities that store dangerous waste that is burned in a boiler or industrial furnace must comply with the requirements of 40 C.F.R. Part 266 Subpart H.) In addition, the following are incorporated by reference for boilers and industrial furnaces that burn hazardous waste: 40 C.F.R. 266.100 (b)(1), 266.100 (b)(2), 266.100 (b)(3), 266.100 (d)(1), 266.100 (d)(3) intro, and 266.100(h)((+)).
(b) The following dangerous wastes are not subject to regulation under this section:
(i) Used oil burned for energy recovery if it is a dangerous waste because it:
(A) Exhibits a characteristic of dangerous waste identified in WAC 173-303-090; or
(B) Is designated as DW only (and not EHW) through the criteria of WAC 173-303-100.
Such used oil is subject to regulation under WAC 173-303-515 rather than this section.

Note: Used oil burned for energy recovery containing a listed waste or a waste designated as EHW through the criteria of WAC 173-303-100 (6)(b) and (c) is subject to this section.

(ii) (Reserved.)

(2) Definitions. Any terms used in this section that are not defined below have the meanings provided in WAC 173-303-040. For the purposes of this section, the following terms have the described meanings:

(a) "Dangerous waste fuel" means dangerous waste burned or to be burned for energy recovery. Fuel produced from dangerous waste by processing, blending, or other treatment is also dangerous waste fuel.
(b) "Distributor" means persons who distribute but do not process or blend dangerous waste fuel. Distributors may broker fuel by arranging for the final disposition of the fuel. Distributors are regulated under subsection (6) of this section.
(c) "Blender" means persons who produce, process, or blend fuel from dangerous wastes. Blenders are regulated under subsection (7) of this section.
(d) "Marketer" means persons who are:
   (i) Generators who market dangerous waste fuel directly to a burner. Generators are regulated under subsection (4) of this section;
   (ii) Distributors, regulated under subsection (6) of this section;
   (iii) Blenders, regulated under subsection (7) of this section.

(3) Prohibitions.

(a) A person may market dangerous waste fuel only:
   (i) To persons, in state, who have notified the department of their dangerous waste fuel activities under WAC 173-303-060 and have an EPA/state identification number or to out-of-state marketers or burners who have notified the EPA or authorized state agency and who have an EPA/state identification number; and
   (ii) When marketed to a burner, to persons who burn the fuel in boilers or industrial furnaces identified in (b) of this subsection.
   (b) Dangerous waste fuel may be burned for energy recovery in the following devices only;
      (i) Industrial furnaces identified in WAC 173-303-040;
      (ii) Boilers, as defined in WAC 173-303-040, that are identified as follows:
         (A) Industrial boilers located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes; or
         (B) Utility boilers used to produce electric power, steam, or heated or cooled air or other gases or fluids for sale.
   (c) No fuel which contains any dangerous waste may be burned in any cement kiln which is located within the boundaries of any incorporated municipality with a population greater than five hundred thousand (based on the most recent census statistics) unless such kiln fully complies with regulations under this chapter that are applicable to incinerators.
   (4) Standards applicable to generators of dangerous waste fuel.
(a) All generators of dangerous waste that is used as a fuel or used to produce a fuel are subject to WAC 173-303-170 through 173-303-230.

(b) Generators who are marketers. Generators are marketers if they send their waste fuel directly to a burner. Generators who are marketers must:

   (i) Prohibitions. Comply with the prohibitions under subsection (3) of this subsection.

   (ii) Notification. Comply with the notification requirements under WAC 173-303-060 for dangerous waste fuel activities. Generators who have previously notified the department of their dangerous waste management activities and obtained an EPA/state identification number, must renotify to identify their dangerous waste fuel activities.


   (iv) Storage. For generators who have interim or final status and exceed the accumulation time frames referenced in (b)(iii) of this subsection, comply with the storage provisions of:

      (A) WAC 173-303-280 through 173-303-395; and

      (B) WAC 173-303-800 through 173-303-840; and

      (C) WAC 173-303-400 for interim status facilities or WAC 173-303-600 through 173-303-692 for final status facilities.

   (v) Required notice. Obtain, prior to initiating the first shipment of dangerous waste fuel, a one time written and signed certification notice from the burner certifying that:

      (A) The burner has notified as described under subsection (3) of this subsection; and

      (B) The burner will burn the dangerous waste fuel only in an industrial furnace or boiler identified in subsection (3)(b) of this subsection.

   (vi) Recordkeeping. Keep a copy of each certification notice received for at least five years from the date of the last dangerous waste fuel shipment to the burner who sent such notice.

(c) Generators who are burners also are subject to subsection (8) of this section.

(5) Standards applicable to transporters of dangerous waste fuel. Transporters of dangerous waste fuel (and dangerous waste that is used to produce a fuel) are subject to the requirements of WAC 173-303-240 through 173-303-270.

(6) Standards applicable to distributors of dangerous waste fuel.

   (a) Prohibitions. The prohibitions under subsection (3) of this section;

   (b) Notification. Notification requirements under WAC 173-303-060 for dangerous waste fuel activities. Distributors who have previously notified the department of their dangerous waste management activities and obtained an EPA/state identification number, must renotify to identify their dangerous waste fuel activities.

   (c) Storage. Distributors who store dangerous waste fuels must comply with the applicable storage provisions of:

      (i) WAC 173-303-280 through 173-303-395; and

      (ii) WAC 173-303-800 through 173-303-840; and

      (iii) WAC 173-303-400 for interim status facilities or WAC 173-303-600 through 173-303-692 for final status facilities;

(d) Off-site shipment. A distributor must meet the standards for generators in WAC 173-303-170 through 173-303-230 when the distributor initiates a shipment of dangerous waste fuel. Except that a distributor may not accumulate dangerous waste fuels under the accumulation provisions of WAC ((173-303-200 or) 173-303-172, 173-303-200, and 173-303-201;)

(e) Required notices.
   (i) Before initiating the first shipment of dangerous waste fuel to another distributor, a blender, or a burner, a distributor must obtain a one-time written and signed certification notice from the distributor, blender, or burner certifying that:
      (A) The burner, distributor, or blender has notified as described under subsection (3) of this section; and
      (B) If the recipient is a burner, the burner will burn the dangerous waste fuel only in an industrial furnace or boiler identified in subsection (3)(b) of this section.

   (ii) Before accepting the first shipment of dangerous waste fuel from another distributor or blender, the distributor must provide the other distributor or blender with a one-time written and signed certification that the distributor has complied with the notification requirements described in subsection (3) of this section; and

(f) Recordkeeping. A distributor must keep a copy of each certification notice received or sent for at least five years from the date the distributor last engaged in a dangerous waste fuel marketing transaction with the person who sent or received the certification notice.

(7) Standards applicable to blenders of dangerous waste fuels.
   (a) Prohibitions. The prohibitions under subsection (3) of this section.

   (b) Notification. Notification requirements under WAC 173-303-060 for dangerous waste fuel activities. Blenders who have previously notified the department of their dangerous waste management activities and obtained an EPA/state identification number, must renotify to identify their dangerous waste fuel activities.

   (c) Facility. For tanks, containers, or other units used to hold dangerous waste prior to blending or processing; for blending or processing tanks, containers, or other units; and for tanks, containers, or other units, used to hold blended or processed fuel, blenders must comply with the applicable provisions of:
      (i) WAC 173-303-280 through 173-303-395; and
      (ii) WAC 173-303-800 through 173-303-840; and
      (iii) WAC 173-303-400 for interim status facilities or WAC 173-303-600 through 173-303-692 for final status facilities;

   (d) Off-site shipment. The standards for generators in WAC 173-303-170 through 173-303-230 when a blender initiates a shipment of dangerous waste fuel, except that a blender may not accumulate dangerous waste fuels under the accumulation provisions of WAC ((173-303-200 or) 173-303-172, 173-303-200, and 173-303-201;)

   (e) Required notices.
      (i) Before initiating the first shipment of dangerous waste fuel to another blender, a distributor, or a burner, a blender must obtain a one-time written and signed certification notice from the blender, distributor, or burner certifying that:
         (A) The burner, distributor, or blender has notified as described under subsection (3) of this section; and
(B) If the recipient is a burner, the burner will burn the dangerous waste fuel only in an industrial furnace or boiler identified in subsection (3)(b) of this section.

(ii) Before accepting the first shipment of dangerous waste fuel from another blender or distributor, the blender must provide the other blender or distributor with a one-time written and signed certification that the blender has complied with the notification requirements described in subsection (3) of this section; and

(f) Recordkeeping. A blender must keep a copy of each certification notice received or sent for at least five years from the date the blender last engaged in a dangerous waste fuel marketing transaction with the person who sent or received the certification notice.

(8) Standards applicable to burners of dangerous waste fuel.

Owners and operators of industrial furnaces and boilers identified in subsection (3)(b) of this section must comply with:

(a) Prohibitions. The prohibitions under subsection (3) of this section;

(b) Notification. Notification requirements under WAC 173-303-060 for dangerous waste fuel activities. A burner who has previously notified the department of dangerous waste management activities and obtained an EPA/state identification number, must renotify to identify the dangerous waste fuel activities;

(c) Storage.

(i) For short term accumulation by generators who burn their dangerous waste fuel on-site, the applicable provisions of WAC 173-303-172, 173-303-200, and 173-303-201.

(ii) For all burners who store dangerous waste fuel, the applicable storage provisions of:

(A) WAC 173-303-280 through 173-303-395;

(B) WAC 173-303-800 through 173-303-840; and

(C) WAC 173-303-400 for interim status facilities or WAC 173-303-600 through 173-303-692 for final status facilities (the air emission requirements do not apply to burners that meet the small quantity burner exemption at 40 C.F.R. 266.101);

(d) Required notices. Before a burner accepts the first shipment of dangerous waste fuel from a distributor, or a blender, or a generator the burner must provide the distributor, or the blender, or the generator a one-time written and signed notice certifying that:

(i) The burner has notified as described under subsection (3) of this section; and

(ii) The dangerous waste fuel will only be burned in an industrial furnace or boiler identified in subsection (3)(b) of this section.

(e) Recordkeeping. In addition to the applicable recordkeeping requirements of WAC 173-303-380, a burner must keep a copy of each certification notice sent for at least five years from the date the burner last receives dangerous waste fuel from the person who received the certification notice.

(f) Local requirements. Any person who burns dangerous waste for energy recovery must comply with air emission requirements of the local air pollution control authority (or department of ecology if no local authority with jurisdiction exists).
WAC 173-303-515 Standards for the management of used oil.  (1) Purpose. The purpose of this section is to provide used oil management standards for generators, transporters, collection centers, aggregation points, transfer facilities, processors, and re-refiners, burners, and marketers of used oil.

(2) Definitions. In addition to the terms used in this chapter, the definitions of 40 C.F.R. Part 279 are incorporated by reference when managing used oil under this section. The term "hazardous waste" used in 40 C.F.R. Part 279 means "dangerous waste" as defined in WAC 173-303-040.

(3) Applicability. This section identifies those materials subject to regulation as used oil. For the purpose of this section, the applicability statements of 40 C.F.R. Part 279.10 are incorporated by reference, except 40 C.F.R. Part 279.10 (b)(2) and (3), and as modified below. In addition, the test methods at WAC 173-303-110(3) must be used.

Materials containing or otherwise contaminated with or derived from used oil: The term "materials" used in 40 C.F.R. Part 279.10 does not include dangerous waste.

(4) Used oil specifications. For the purpose of managing materials under this section, 40 C.F.R. Part 279.11 and 40 C.F.R. Part 261.3 (a)(2)(v) (rebuttable presumption) are incorporated by reference except that the test methods at WAC 173-303-110(3) must be used.

The table is included below for the reader's convenience.

<table>
<thead>
<tr>
<th>Constituent/property</th>
<th>Allowable level</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arsenic</td>
<td>5 ppm maximum</td>
</tr>
<tr>
<td>Cadmium</td>
<td>2 ppm maximum</td>
</tr>
<tr>
<td>Chromium</td>
<td>10 ppm maximum</td>
</tr>
<tr>
<td>Lead</td>
<td>100 ppm maximum</td>
</tr>
<tr>
<td>Flash point</td>
<td>100° F minimum</td>
</tr>
<tr>
<td>Total halogens</td>
<td>4,000 ppm maximum</td>
</tr>
</tbody>
</table>

Note: Applicable standards for the burning of used oil containing PCBs are imposed by 40 C.F.R. 761.20(e).

Used oil containing more than 1,000 ppm total halogens is presumed to be a dangerous waste under the rebuttable presumption provided under 40 C.F.R. 279.10(b)(1). Such used oil is subject to 40 C.F.R. Subpart H of Part 266 rather than this section when burned for energy recovery unless the presumption of mixing can be successfully rebutted.

(5) Prohibitions. The prohibitions of 40 C.F.R. Part 279.12 are incorporated by reference. The prohibitions for managing materials under this section include those listed in 40 C.F.R. Part 279.12 and the following:

(a) Materials designating as EHW or WPCB cannot be managed under this section when burned for energy recovery. Note: Materials managed under this section containing 2 ppm or greater PCBs are subject to applicable requirements of 40 C.F.R. Part 761.20(e).

(b) Metal working fluids that are formulated with chlorinated compounds such as chlorinated paraffins or chlorinated alkene polymers cannot be managed under this section when burned for energy recovery.
Ethylene glycol based fluids cannot be managed under this section. These fluids are subject to section WAC 173-303-522 when recycled.

The use of used oil or other materials managed under this section as a dust suppressant is prohibited.

Materials to be managed under this section are prohibited from being mixed with any dangerous waste. If any material managed under this section is mixed with dangerous waste, the resultant mixture is dangerous waste and must be managed as such.

6 Standards for used oil generators. This subsection applies to all used oil generators and persons managing materials under this section. The standards for used oil generators of 40 C.F.R. Parts 279.20 through 279.24 are incorporated by reference except 40 C.F.R. Part 279.21. Used oil generators and persons managing materials under this subsection are subject to the federal regulations listed above and the following:

(a) Storage requirements for containers and tanks.
   (i) Containers must be closed at all times, except when adding or removing materials managed under this section.
   (ii) Containers and tanks must not be opened, handled, managed or stored in a manner that may cause the container or tank to leak or rupture.

(b) Secondary containment requirements for storage of material managed under this section in tanks and containers.

   The department may require secondary containment, on a case-by-case basis, in accordance with some or all of the requirements in WAC 173-303-630(7) and 173-303-640(4) if the department determines that a potential for spills and discharges, mismanagement, or other factors pose a threat to human health or the environment.

(c) Self-transport to approved collection centers. In addition to 40 C.F.R. Part 279.24(a), generators may self-transport quantities greater than 55 gallons to a used oil collection center: Provided, That the owner/operator of the center records the name, address, telephone number, date of delivery and quantity of used oil being delivered to the site by the generator.

7 Standards for used oil collection centers and aggregation points. For the purpose of managing materials under this section, 40 C.F.R. Parts 279.30 through 279.32 are incorporated by reference. The standards for used oil collection centers under this subsection are those federal regulations listed above and the following modifications:

   In addition to the requirements of 40 C.F.R. Part 279.31, the owner or operator of a used oil collection center may accept greater than 55 gallons of used oil from generators: Provided, That:
   (a) The requirements for a used oil transfer facility (40 C.F.R. Parts 279.40 through 279.47) are complied with while that used oil is on site; and
   (b) The owner/operator of the collection center records the name, address, telephone number, date of delivery and quantity of used oil being delivered to the site by the generator of the used oil; and
   (c) Such records are kept on site for a period of three years.

8 Standards for used oil transporters and transfer facilities. For the purpose of managing materials under this section, 40 C.F.R. Parts 279.40 through 279.47 are incorporated by reference except that the test methods at WAC 173-303-110(3) must be used and the annual reporting requirements of WAC 173-303-060 must be complied with. The standards for used oil transfer facilities under this subsection are
those federal regulations listed above and the following modifications:

Additional reports. Upon determination by the department that the storage of used oil in tanks and/or containers poses a threat to public health or the environment, the department may require the owner/operator to provide additional information regarding the integrity of structures and equipment used to store used oil. This authority applies to tanks and secondary containment systems used to store used oil in tanks and containers. The department's determination of a threat to public health or the environment may be based upon observations of factors that would contribute to spills or releases of used oil or the generation of hazardous by-products (e.g., hydrogen sulfide gas). Those observations may include, but are not limited to, leaks, severe corrosion, structural defects or deterioration (cracks, gaps, separation of joints), inability to completely inspect tanks or structures, or concerns about the age or design specification of tanks.

(a) When required by the department, a qualified, independent professional engineer registered to practice in Washington state must perform the assessment of the integrity of tanks or secondary containment systems.

(b) Requirement for facility repairs and improvements. If, upon evaluation of information obtained by the department under (a) of this subsection, it is determined that repairs or structural improvements are necessary in order to eliminate threats, the department may require the owner/operator to discontinue the use of the tank system or container storage unit and remove the used oil until the repairs or improvements are completed and approved by the department.

(9) Standards for used oil processors and rerefiners. For the purpose of managing materials under this section, 40 C.F.R. Parts 279.50 through 279.59 are incorporated by reference except that the test methods at WAC 173-303-110(3) must be used and the annual reporting requirements of WAC 173-303-060 must be complied with. The standards for used oil processors and rerefiners under this subsection are those federal regulations listed above and the following:

(a) In addition to the general facility standards of 40 C.F.R. Part 279.52, owners and operators of used oil processing and/or rerefining facilities regulated under this subsection are subject to the following:

(i) Used oil and other materials managed under the standards for management of used oil may be stored on-site without a permit for ninety days prior to entering an active recycling process. An active recycling process refers to a dynamic recycling operation that occurs within the recycling unit such as a distillation or centrifuge unit. The phrase does not refer to passive storage-like activities that occur, for example, when tanks or containers are used for phase separation or for settling impurities;

(ii) Facility closure standards of WAC 173-303-610 (2) and (12); and

(iii) Financial requirements of WAC 173-303-620 (1)(e).

(b) Additional reports. Upon determination by the department that the storage of used oil in tanks and/or containers poses a threat to public health or the environment, the department may require the owner/operator to provide additional information regarding the integrity of structures and equipment used to store used oil. This authority applies to tanks and secondary containment systems used to store used oil in tanks and containers. The department's determination of a threat to public health or the environment may be based upon observa-
tions of factors that would contribute to spills or releases of used oil or the generation of hazardous by-products (for example, hydrogen sulfide gas). Those observations may include, but are not limited to, leaks, severe corrosion, structural defects or deterioration (cracks, gaps, separation of joints), inability to completely inspect tanks or structures, or concerns about the age or design specification of tanks.

(i) When required by the department, a qualified, independent professional engineer registered to practice in Washington state must perform the assessment of the integrity of tanks or secondary containment systems.

(ii) Requirement for facility repairs and improvements. If, upon evaluation of information obtained by the department under (b) of this subsection, it is determined that repairs or structural improvements are necessary in order to eliminate threats, the department may require the owner/operator to discontinue the use of the tank system or container storage unit and remove the used oil until such repairs or improvements are completed and approved by the department.

(10) Standards for used oil burners who burn off-specification. For the purpose of managing materials under this subsection, 40 C.F.R. Parts 279.60 through 279.67 are incorporated by reference except that the test methods at WAC 173-303-110(3) must be used and the annual reporting requirements of WAC 173-303-060 must be complied with.

(11) Standards for used oil fuel marketers. For the purpose of managing materials under this subsection, 40 C.F.R. Parts 279.70 through 279.75 are incorporated by reference. In addition, the annual reporting requirements of WAC 173-303-060 must be met.

(12) Standards for disposal of used oil. For the purpose of managing materials under this subsection, 40 C.F.R. Parts 279.80 through 279.82(a) are incorporated by reference.

(13) Testing required. (a) Notwithstanding any other provisions of this section, the department may require any person to test their used oil according to the methods set forth in Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, EPA Publication, SW-846 to either determine if the used oil is on-specification as described in WAC 173-303-515(4), determine whether the used oil contains a listed hazardous waste, or determine if the used oil is prohibited from being managed as used oil in WAC 173-303-515(5).

(b) Where the federal regulations that have been incorporated by reference refer to 40 C.F.R. 260.11, data provided under this section must instead meet the requirements of WAC 173-303-110(3).

AMENDATORY SECTION (Amending WSR 15-01-123, filed 12/18/14, effective 1/18/15)

WAC 173-303-520 Special requirements for reclaiming spent lead acid battery wastes. This section applies to persons who reclaim (including regeneration) spent lead-acid batteries that are recyclable materials ("spent batteries"). (Also, see WAC 173-303-120(3).)

(1) Persons who generate, transport, or collect spent batteries, who regenerate spent batteries, or who store spent batteries but do not reclaim them (other than spent batteries that are to be regenerated) are subject only to the requirements of WAC 173-303-016 through
173-303-169 except for 173-303-060, and WAC 173-303-960 if such spent batteries are going to a battery reclaimer. Persons who reclaim spent batteries through regeneration (such as by electrolyte replacement) are not subject to 40 C.F.R. Part 268, which is incorporated by reference at WAC 173-303-140 (2)(a).

(a) Exporters who send spent batteries to a foreign destination (other than to those OECD countries specified in 40 C.F.R. 262.58 (a)(1) which is incorporated by reference in WAC 173-303-230(1)) must:

(i) Comply with the requirements of 40 C.F.R. Part 262, Subpart H which is incorporated by reference in WAC 173-303-230(1);
(ii) Provide a copy of the EPA Acknowledgment of Consent applicable movement documents for the shipment to the transporter transporting the shipment for export.

(b) (A spent battery) Transporters transporting a shipment of spent batteries to a foreign destination (other than to those OECD countries specified in 40 C.F.R. 262.58 (a)(1) (in which case the transporter is subject to)) must comply with the requirements of 40 C.F.R. Part 262, Subpart H which is incorporated by reference in WAC 173-303-230(1); and

(i) The shipment is delivered to the facility designated by the person initiating the shipment.

(2) Owners and operators of battery reclaiming facilities that store spent lead acid batteries prior to reclaiming (other than spent batteries that are to be regenerated) them are subject to the following requirements:

(a) For all reclaimers, the applicable storage provisions of:

(i) WAC 173-303-280 (2) and (3);
(ii) WAC 173-303-282;
(iii) WAC 173-303-283;
(iv) WAC 173-303-290;
(v) WAC 173-303-310 through 173-303-360;
(vi) WAC 173-303-380;
(vii) WAC 173-303-390 (2) and (3);
(viii) WAC 173-303-395; and
(ix) WAC 173-303-800 through 173-303-840.

(b) For reclaimers with interim status permits, the applicable storage provisions of WAC 173-303-400 including Subparts F through L of 40 C.F.R. Part 265;

(c) For reclaimers with final facility permits, the applicable storage provisions of:

(i) WAC 173-303-600 through 173-303-650; and
(ii) WAC 173-303-660.
WAC 173-303-522 Special requirements for recycling spent antifreeze.

(1) Applicability. This section applies to the recycling of spent antifreeze. Antifreeze means ethylene glycol based coolant used as a heat exchange medium in motor vehicle radiators, motorized equipment, or in other industrial processes. For the purposes of this section recycling means reclamation and reuse, but not burning for energy recovery. (Also, see WAC 173-303-120(3).)

(2) Standards. Persons who generate, transport, or store spent antifreeze but do not reclaim or recycle it are subject to the requirements of WAC 173-303-050, 173-303-145, and 173-303-960 if their spent antifreeze is going to a recycler. Any discharge of spent antifreeze to the environment constitutes disposal and is subject to full regulation under this chapter.

(a) Generator requirements:
   (i) Persons who reclaim or recycle their spent antifreeze on-site, or send their antifreeze off-site to be reclaimed or recycled, must keep records for a period of five years from the date of reclamation/recycling.
   Proof of reclamation/recycling is either a log for on-site reclamation/recycling or an invoice or bill of lading for off-site reclamation/recycling.
   (ii) Containers and tanks used to accumulate spent antifreeze must be labeled "spent antifreeze."
   (iii) Spent antifreeze that is to be reclaimed can be accumulated on-site for any length of time, and in any amount.
   (iv) During accumulation, spent antifreeze must be stored in a manner to prevent releases to the environment. This includes, but is not limited to, storing wastes in compatible containers, on impermeable surfaces, or in secondary containment structures.

(b) If spent antifreeze is mixed with another dangerous waste, generators are subject to the generator requirements, WAC 173-303-170 through 173-303-230.

(c) Persons who generate spent antifreeze that is not reclaimed/reycled, but is otherwise disposed, are subject to all applicable requirements of this chapter.

(3) Transporters and transfer facility requirements:

(a) Persons engaged in routine off-site transportation of spent antifreeze are required to obtain ((a state/EPA ID number)) an EPA/state ID#, WAC 173-303-060, and to comply with the transporter requirements, WAC 173-303-240.

(b) If spent antifreeze is mixed with another dangerous waste, transporters are subject to the generator requirements, WAC 173-303-170 through 173-303-230.

(c) Transporters who store spent antifreeze at a transfer facility are allowed to use tanks or containers as defined in WAC 173-303-040, and store such waste for up to ten days, WAC 173-303-240(6).

Transporters may store spent antifreeze at a transfer facility for longer than ten days if they meet the requirements for tank and/or container management, including secondary containment in WAC 173-303-630 through 173-303-640.

(4) Reclamation/recycling facility requirements: Owners and operators of antifreeze reclaiming/recycling facilities are subject to the
conditions of WAC 173-303-120 (4)(c). These conditions apply equally to facilities whether or not ecology approved case-by-case seventy-two hour storage of spent antifreeze occurs prior to reclamation.

AMENDATORY SECTION (Amending WSR 04-24-065, filed 11/30/04, effective 1/1/05)

WAC 173-303-525 Special requirements for recyclable material utilized for precious metal recovery. (1) Applicability and requirements. (Also, see WAC 173-303-120(3).)

(a) This section applies to recyclable materials that are recovered to recover economically significant amounts of gold, silver, platinum, palladium, iridium, osmium, rhodium, ruthenium, or any combination of these.

(b) Persons who generate, transport, or store recyclable materials that are regulated under this section are subject to the following requirements:

(i) Notification requirements under WAC 173-303-060;
(ii) WAC 173-303-180 (for generators), 173-303-250 (for transporters), and 173-303-370 (for persons who store); and
(iii) For precious metals exported to or imported from (designated OECD member) other countries for recovery, 40 C.F.R. subpart H of part 262 (incorporated by reference at WAC 173-303-230(1)) ((and 173-303-290 (1)(b)). For precious metals exported to or imported from non-OECD countries for recovery, 40 C.F.R. subpart E (incorporated by reference at WAC 173-303-230(1)) and 173-303-230(2)).

(c) Persons who store recycled materials that are regulated under this section must keep the following records to document that they are not accumulating these materials speculatively (as defined in WAC 173-303-016 (5)(d)(ii));

(i) Records showing the volume of these materials stored at the beginning of the calendar year;
(ii) The amount of these materials generated or received during the calendar year; and
(iii) The amount of materials remaining at the end of the calendar year.

(d) Recyclable materials that are regulated under this section that are accumulated speculatively (as defined in WAC 173-303-016 (5)(d)(ii)) are dangerous wastes and are subject to all applicable provisions of this chapter.

(2) Additional regulation of recyclable materials utilized for precious metal recovery on a case-by-case basis.

The department may decide on a case-by-case basis that persons accumulating or storing recyclable materials utilized for precious metal recovery should be regulated under WAC 173-303-120(4). The basis for this decision is that the materials are being accumulated or stored in a manner that does not protect human health and the environment because the materials or their toxic constituents have not been adequately contained, or because the materials being accumulated or stored together are incompatible. In making this decision, the department will consider the following factors:

(a) The types of materials accumulated or stored and the amounts accumulated or stored;
(b) The method of accumulation or storage;
The length of time the materials have been accumulated or stored before being reclaimed;

Whether any contaminants are being released into the environment, or are likely to be so released; and

Other relevant factors.

The procedures for this decision are set forth in subsection (3) of this section.

(3) Procedures for case-by-case regulation of recyclable materials utilized for precious metal recovery.

The department will use the following procedures when determining whether to regulate recyclable materials utilized for precious metal recovery under the provisions of WAC 173-303-120(4), rather than under the provisions of subsection (1) of this section.

(a) If a generator is accumulating the waste, the department will issue a notice setting forth the factual basis for the decision and stating that the person must comply with the applicable requirements of WAC 173-303-170 and 173-303-190 through 173-303-230. The notice will become final within thirty days, unless the person served requests a public hearing to challenge the decision. Upon receiving such a request, the department will hold a public hearing. The department will provide notice of the hearing to the public and allow public participation at the hearing. The department will issue a final order after the hearing stating whether or not compliance with WAC 173-303-170 and 173-303-190 through 173-303-230 is required. The order becomes effective thirty days after service of the decision unless the department specifies a later date or unless review by the department is requested. The order may be appealed to the pollution control hearings board, in accordance with WAC 173-303-845, by any person who participated in the public hearing.

(b) If the person is accumulating the recyclable material as a storage facility, the notice will state that the person must obtain a permit in accordance with all applicable provisions of WAC 173-303-800 through 173-303-840. The owner or operator of the facility must apply for a permit within no less than sixty days and no more than six months of notice, as specified in the notice. If the owner or operator of the facility wishes to challenge the department's decision, they may do so in their permit application, in a public hearing held on the draft permit, or in comments filed on the draft permit or on the notice of intent to deny the permit. The fact sheet accompanying the permit will specify the reasons for the department's determination. The question of whether the department's decision was proper will remain open for consideration during the public comment period discussed under WAC 173-303-840 (4)(d) and in any subsequent hearing.

AMENDATORY SECTION (Amending WSR 15-01-123, filed 12/18/14, effective 1/18/15)

WAC 173-303-573 Standards for universal waste management.

(1) Scope.

(a) This section establishes requirements for managing the following:

(i) Batteries as described in subsection (2) of this section;

(ii) Mercury-containing equipment as described in subsection (3) of this section; and
(iii) Lamps as described in subsection (5) of this section.

(b) This section provides an alternative set of management standards in lieu of regulation under the rest of this chapter except for WAC 173-303-050, 173-303-145, and 173-303-960.

(2) Applicability - Batteries.
(a) Batteries covered under this section.
(i) The requirements of this section apply to persons managing batteries, as described in WAC 173-303-040, except those listed in (b) of this subsection.
(ii) Spent lead-acid batteries which are not managed under WAC 173-303-120 (3)(f) and 173-303-520, are subject to management under this section.
(b) Batteries not covered under this section. The requirements of this section do not apply to persons managing the following batteries:
(i) Spent lead-acid batteries that are managed under WAC 173-303-120(3) and 173-303-520.
(ii) Batteries, as described in WAC 173-303-040, that are not yet wastes under WAC 173-303-016, 173-303-017, or 173-303-070, including those that do not meet the criteria for waste generation in (c) of this subsection.
(iii) Batteries, as described in WAC 173-303-040, that are not dangerous waste. A battery is a dangerous waste if it exhibits one or more of the characteristics or criteria identified in WAC 173-303-090 or 173-303-100.

(c) Generation of waste batteries.
(i) A used battery becomes a waste on the date it is discarded (for example, when sent for reclamation).
(ii) An unused battery becomes a waste on the date the handler decides to discard it.

(3) Applicability - Mercury-containing equipment.
(a) Mercury-containing equipment covered under this section. The requirements of this section apply to persons managing mercury-containing equipment, as described in WAC 173-303-040, except those listed in (b) of this subsection.
(b) Mercury-containing equipment not covered under this section. The requirements of this section do not apply to persons managing the following mercury-containing equipment:
(i) Mercury-containing equipment that is not yet a waste under WAC 173-303-016, 173-303-017, or 173-303-070. Paragraph (c) of this subsection describes when mercury-containing equipment becomes a waste;
(ii) Mercury-containing equipment that is not a dangerous waste. Mercury-containing equipment is a dangerous waste if it exhibits one or more of the characteristics or criteria identified in WAC 173-303-090 or 173-303-100; and
(iii) Equipment and devices from which the mercury-containing components have been removed.
(c) Generation of waste mercury-containing equipment.
(i) Used mercury-containing equipment becomes a waste on the date it is discarded.
(ii) Unused mercury-containing equipment becomes a waste on the date the handler decides to discard it.

(4) ((Reserved.) (Reserved.)

(5) Applicability - Lamps.
(a) Lamps covered under this section. The requirements of this section apply to persons managing lamps, as described in WAC 173-303-040, except those listed in (b) of this subsection.
(b) Lamps not covered under this section. The requirements of this section do not apply to persons managing the following lamps:

(i) Lamps that are not yet wastes under WAC 173-303-016, 173-303-017, or 173-303-070. Paragraph (c) of this subsection describes when lamps become wastes.

(ii) Lamps that are not dangerous waste. Lamps that do not exhibit one or more of the characteristics or criteria identified in WAC 173-303-090 or 173-303-100 are not dangerous waste.

(c) Generation of waste lamps.

(i) A used lamp becomes a waste on the date it is discarded.

(ii) An unused lamp becomes a waste on the date the handler decides to discard it.

(6) **Applicability - Small quantity handlers of universal waste.**

Subsections (6) through (16) of this section apply to small quantity handlers of universal waste (as defined in WAC 173-303-040).

(7) **Prohibitions.**

A small quantity handler of universal waste is:

(a) Prohibited from disposing of universal waste; and

(b) Prohibited from diluting or treating universal waste, except by responding to releases as provided in subsection (13) of this section; or by managing specific wastes as provided in subsection (9) of this section.

(8) **Notification.**

A small quantity handler of universal waste is not required to notify the department of universal waste handling activities.

(9) **Waste management.**

(a) Universal waste batteries. A small quantity handler of universal waste must manage universal waste batteries in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(i) A small quantity handler of universal waste must contain any universal waste battery that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the battery, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

(ii) A small quantity handler of universal waste may conduct the following activities as long as the casing of each individual battery cell is not breached and remains intact and closed (except that cells may be opened to remove electrolyte but must be immediately closed after removal):

(A) Sorting batteries by type;

(B) Mixing battery types in one container;

(C) Discharging batteries so as to remove the electric charge;

(D) Regenerating used batteries;

(E) Disassembling batteries or battery packs into individual batteries or cells;

(F) Removing batteries from consumer products; or

(G) Removing electrolyte from batteries.

(iii) A small quantity handler of universal waste who removes electrolyte from batteries, or who generates other solid waste (for example, battery pack materials, discarded consumer products) as a result of the activities listed above, must determine whether the electrolyte and/or other solid waste exhibit a characteristic or criteria of dangerous waste identified in WAC 173-303-090 or 173-303-100.
(A) If the electrolyte and/or other solid waste exhibit a characteristic or criteria of dangerous waste, it is subject to all applicable requirements of this chapter. The handler is considered the generator of the dangerous electrolyte and/or other waste and is subject to WAC 173-303-170 through 173-303-230.

(B) If the electrolyte or other solid waste is not dangerous, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

(b) Universal waste mercury-containing equipment. A small quantity handler of universal waste must manage universal waste mercury-containing equipment in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(i) A small quantity handler of universal waste must place in a container any universal waste mercury-containing equipment with non-contained elemental mercury or that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions. The container must be closed, structurally sound, compatible with the contents of the device, must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions, and must be reasonably designed to prevent the escape of mercury into the environment by volatilization or any other means.

(ii) A small quantity handler of universal waste may remove mercury-containing ampules from universal waste mercury-containing equipment provided the handler:

(A) Removes and manages the ampules in a manner designed to prevent breakage of the ampules;

(B) Removes the ampules only over or in a containment device (for example, tray or pan sufficient to collect and contain any mercury released from an ampule in case of breakage);

(C) Ensures that a mercury cleanup system is readily available to immediately transfer any mercury resulting from spills or leaks from broken ampules from that containment device to a container that meets the requirements of WAC 173-303-200;

(D) Immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of WAC 173-303-200;

(E) Ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;

(F) Ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;

(G) Stores removed ampules in closed, nonleaking containers that are in good condition;

(H) Packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation; and

(iii) A small quantity handler of universal waste mercury-containing equipment that does not contain an ampule may remove the open original housing holding the mercury from universal waste mercury-containing equipment provided the handler:

(A) Immediately seals the original housing holding the mercury with an airtight seal to prevent the release of any mercury to the environment; and

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(B) Follows all requirements for removing ampules and managing removed ampules under (b)(ii) of this subsection; and

(iv)(A) A small quantity handler of universal waste who removes mercury-containing ampules from mercury-containing equipment or seals mercury from mercury-containing equipment in its original housing must determine whether the following exhibit a characteristic or criteria of dangerous waste identified in WAC 173-303-090 or 173-303-100:

(I) Mercury or cleanup residues resulting from spills or leaks; and/or

(II) Other solid waste generated as a result of the removal of mercury-containing ampules or housings (for example, the remaining mercury-containing device).

(B) If the mercury, residues, and/or other solid waste exhibit a characteristic or criteria of dangerous waste, it must be managed in compliance with all applicable requirements of this chapter. The handler is considered the generator of the mercury, residues, and/or other waste and must manage it subject to WAC 173-303-170 through 173-303-230.

(C) If the mercury, residues, and/or other solid waste is not dangerous, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

(c) Universal waste lamps. A small quantity handler of universal waste must manage universal waste lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(i) A small quantity handler of universal waste must immediately clean up and place in a container any universal waste lamps that show evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions. The container must be closed, structurally sound, compatible with the contents of the lamps, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

(ii) A small quantity handler of universal waste must minimize lamp breakage by accumulating lamps in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. The containers and packages must remain closed and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

(iii) A small quantity handler of universal waste must store lamps accumulated in cardboard or fiber containers indoors, meaning in a structure that prevents the container from being exposed to the elements.

(10) Labeling/markings.

A small quantity handler of universal waste must label or mark the universal waste to identify the type of universal waste as specified below:

(a) Universal waste batteries (that is, each battery), or a container in which the batteries are contained, must be labeled or marked clearly with any one of the following phrases: "Universal Waste-Battery(ies)," or "Waste Battery(ies)," or "Used Battery(ies);"

(b)(i) Universal waste mercury-containing equipment (that is, each device), or a container in which the equipment is contained, must be labeled or marked clearly with any of the following phrases: "Universal Waste Mercury-Containing Equipment," "Waste Mercury-Containing Equipment," or "Used Mercury-Containing Equipment."
A universal waste mercury-containing thermostat or container containing only universal waste mercury-containing thermostats may be labeled or marked clearly with any of the following phrases "Universal Waste-Mercury Thermostat(s)," "Waste Mercury Thermostat(s)," or "Used Mercury Thermostat(s)."

(c) Universal waste lamps (that is, each lamp), or a container in which the lamps are accumulated, must be labeled or marked clearly with any one of the following phrases: "Universal Waste Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)."

(11) **Accumulation time limits.**

(a) A small quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated, or received from another handler, unless the requirements of (b) of this subsection are met.

(b) A small quantity handler of universal waste may accumulate universal waste for longer than one year from the date the universal waste is generated, or received from another handler, if such activity is solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal. However, the handler bears the burden of proving that such activity is solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal.

(c) A small quantity handler of universal waste who accumulates universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. The handler may make this demonstration by:

(i) Placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received;

(ii) Marking or labeling each individual item of universal waste (for example, each battery, thermostat, mercury-containing equipment, or lamp) with the date it became a waste or was received;

(iii) Maintaining an inventory system on-site that identifies the date each universal waste became a waste or was received;

(iv) Maintaining an inventory system on-site that identifies the earliest date that any universal waste in a group of universal waste items or a group of containers of universal waste became a waste or was received;

(v) Placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received; or

(vi) Any other method which clearly demonstrates the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

(12) **Employee training.**

A small quantity handler of universal waste must inform all employees who handle or have responsibility for managing universal waste. The information must describe proper handling and emergency procedures appropriate to the type(s) of universal waste handled at the facility.

(13) **Response to releases.**

(a) A small quantity handler of universal waste must immediately contain all releases of universal wastes and other residues from universal wastes.

(b) A small quantity handler of universal waste must determine whether any material resulting from the release is dangerous waste,
and if so, must manage the dangerous waste in compliance with all applicable requirements of this chapter. The handler is considered the generator of the material resulting from the release, and must manage it in compliance with WAC 173-303-170 through 173-303-230.

14. **Off-site shipments.**
   (a) A small quantity handler of universal waste is prohibited from sending or taking universal waste to a place other than another universal waste handler, a destination facility, or a foreign destination.

(b) If a small quantity handler of universal waste self-transported universal waste off-site, the handler becomes a universal waste transporter for those self-transportation activities and must comply with the transporter requirements of subsections (28) through (34) of this section while transporting the universal waste.

(c) If a universal waste being offered for off-site transportation meets the definition of hazardous materials under 49 C.F.R. Parts 171 through 180, a small quantity handler of universal waste must package, label, mark and placard the shipment, and prepare the proper shipping papers in accordance with the applicable Department of Transportation regulations under 49 C.F.R. Parts 172 through 180.

(d) Prior to sending a shipment of universal waste to another universal waste handler, the originating handler must ensure that the receiving handler agrees to receive the shipment.

(e) If a small quantity handler of universal waste sends a shipment of universal waste to another handler or to a destination facility and the shipment is rejected by the receiving handler or destination facility, the originating handler must either:
   (i) Receive the waste back when notified that the shipment has been rejected, or
   (ii) Agree with the receiving handler on a destination facility to which the shipment will be sent.

(f) A small quantity handler of universal waste may reject a shipment containing universal waste, or a portion of a shipment containing universal waste that (he has) they have received from another handler. If a handler rejects a shipment or a portion of a shipment, (he) they must contact the originating handler to notify (him) them of the rejection and to discuss reshipment of the load. The handler must:
   (i) Send the shipment back to the originating handler; or
   (ii) If agreed to by both the originating and receiving handler, send the shipment to a destination facility.

(g) If a small quantity handler of universal waste receives a shipment containing dangerous waste that is not a universal waste, the handler must immediately notify the department of the illegal shipment, and provide the name, address, and phone number of the originating shipper. The department will provide instructions for managing the dangerous waste.

(h) If a small quantity handler of universal waste receives a shipment of non-dangerous, non-universal waste, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

15. **Tracking universal waste shipments.**
   A small quantity handler of universal waste is not required to keep records of shipments of universal waste.

16. **Exports.**
   A small quantity handler of universal waste who sends universal waste to a foreign destination (other than to those OECD countries...
specified in 40 C.F.R. 262.58 (a)(1) (in which case the handler) is subject to the requirements of 40 C.F.R. Part 262, Subpart H which is incorporated by reference at WAC 173-303-230((1 must):

(a) Comply with the requirements applicable to a primary exporter in 40 C.F.R. 262.53, 262.56 (a)(1) through (4), (6), and (b) and 262.57 which are incorporated by reference at WAC 173-303-230(1);

(b) Export such universal waste only upon consent of the receiving country and in conformance with the EPA Acknowledgment of Consent as defined in 40 C.F.R. Subpart E of Part 262 which is incorporated by reference at WAC 173-303-230(1); and

(c) Provide a copy of the EPA Acknowledgment of Consent for the shipment to the transporter transporting the shipment for export).

Applicability - Large quantity handlers of universal waste.
Subsections (17) through (27) of this section apply to large quantity handlers of universal waste (as defined in WAC 173-303-040).

Prohibitions.
A large quantity handler of universal waste is:
(a) Prohibited from disposing of universal waste; and
(b) Prohibited from diluting or treating universal waste, except by responding to releases as provided in subsection (24) of this section; or by managing specific wastes as provided in subsection (20) of this section.

Notification.
(a)(i) Except as provided in (a)(ii) of this subsection, a large quantity handler of universal waste must have sent written notification of universal waste management to the department, and received an EPA Identification Number, before meeting or exceeding the 11,000 pound storage limit and/or before meeting or exceeding the 2,200 pound storage limit for lamps.

(ii) A large quantity handler of universal waste who has already notified the department of their dangerous waste management activities and has received an EPA Identification Number is not required to renotify under this section.

(b) This notification must include:
(i) The universal waste handler's name and mailing address;
(ii) The name and business telephone number of the person at the universal waste handler's site who should be contacted regarding universal waste management activities;
(iii) The address or physical location of the universal waste management activities;
(iv) A list of all of the types of universal waste managed by the handler (for example, batteries, mercury-containing equipment, and lamps); and
(v) A statement indicating that the handler is accumulating more than 11,000 pounds of universal waste at one time, and/or a statement indicating that the handler is accumulating more than 2,200 pounds of lamps at one time. (For example, if a handler is accumulating 6,000 pounds of batteries, 4,500 pounds of mercury-containing equipment and 600 pounds of universal waste lamps, they would notify for having 11,100 pounds of universal waste at one time - Likewise, if a handler is accumulating 6,000 pounds of batteries, 2,000 pounds of mercury-containing equipment and 2,400 pounds of universal waste lamps, they would also need to notify for exceeding the 2,200 pound limit for universal waste lamps.)

Waste management.
(a) Universal waste batteries. A large quantity handler of universal waste must manage universal waste batteries in a way that pre-
vents releases of any universal waste or component of a universal waste to the environment, as follows:

(i) A large quantity handler of universal waste must contain any universal waste battery that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container must be closed, structurally sound, compatible with the contents of the battery, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

(ii) A large quantity handler of universal waste may conduct the following activities as long as the casing of each individual battery cell is not breached and remains intact and closed (except that cells may be opened to remove electrolyte but must be immediately closed after removal):
   
   (A) Sorting batteries by type;
   (B) Mixing battery types in one container;
   (C) Discharging batteries so as to remove the electric charge;
   (D) Regenerating used batteries;
   (E) Disassembling batteries or battery packs into individual batteries or cells;
   (F) Removing batteries from consumer products; or
   (G) Removing electrolyte from batteries.

(iii) A large quantity handler of universal waste who removes electrolyte from batteries, or who generates other solid waste (for example, battery pack materials, discarded consumer products) as a result of the activities listed above, must determine whether the electrolyte and/or other solid waste exhibit a characteristic or criteria of dangerous waste identified in WAC 173-303-090 or 173-303-100.

   (A) If the electrolyte and/or other solid waste exhibit a characteristic or criteria of dangerous waste, it must be managed in compliance with all applicable requirements of this chapter. The handler is considered the generator of the dangerous electrolyte and/or other waste and is subject to WAC 173-303-170 through 173-303-230.

   (B) If the electrolyte or other solid waste is not dangerous, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

(b) Universal waste mercury-containing equipment. A large quantity handler of universal waste must manage universal waste mercury-containing equipment in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(i) A large quantity handler of universal waste must place in a container any universal waste mercury-containing equipment with non-contained elemental mercury or that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions. The container must be closed, structurally sound, compatible with the contents of the device, must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions, and must be reasonably designed to prevent the escape of mercury into the environment by volatilization or any other means.

(ii) A large quantity handler of universal waste may remove mercury-containing ampules from universal waste mercury-containing equipment provided the handler:
   (A) Removes and manages the ampules in a manner designed to prevent breakage of the ampules;
(B) Removes ampules only over or in a containment device (for example, tray or pan sufficient to collect and contain any mercury released from an ampule in case of breakage);

(C) Ensures that a mercury ((clean-up)) cleanup system is readily available to immediately transfer any mercury resulting from spills or leaks of broken ampules, from that containment device to a container that meets the requirements of WAC 173-303-200;

(D) Immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of WAC 173-303-200;

(E) Ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;

(F) Ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;

(G) Stores removed ampules in closed, nonleaking containers that are in good condition;

(H) Packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation;

(iii) A large quantity handler of universal waste mercury-containing equipment that does not contain an ampule may remove the open original housing holding the mercury from universal waste mercury-containing equipment provided the handler:

(A) Immediately seals the original housing holding the mercury with an airtight seal to prevent the release of any mercury to the environment; and

(B) Follows all requirements for removing ampules and managing removed ampules under (b)(ii) of this subsection; and

(iv)(A) A large quantity handler of universal waste who removes mercury-containing ampules from mercury-containing equipment or seals mercury from mercury-containing equipment in its original housing must determine whether the following exhibit a characteristic or criteria of dangerous waste identified in WAC 173-303-090 or 173-303-100:

(I) Mercury or ((clean-up)) cleanup residues resulting from spills or leaks; and/or

(II) Other solid waste generated as a result of the removal of mercury-containing ampules or housings (for example, the remaining mercury-containing device).

(B) If the mercury, residues, and/or other solid waste exhibits a characteristic or criteria of dangerous waste, it must be managed in compliance with all applicable requirements of this chapter. The handler is considered the generator of the mercury, residues, and/or other waste and must manage it in compliance with WAC 173-303-170 through 173-303-230.

(C) If the mercury, residues, and/or other solid waste is not dangerous, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

(c) Universal waste lamps. A large quantity handler of universal waste must manage universal waste lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(i) A large quantity handler of universal waste must immediately clean up and place in a container any universal waste lamps that show
evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions. The container must be closed, structurally sound, compatible with the contents of the lamps, and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

(ii) A large quantity handler of universal waste must minimize lamp breakage by accumulating lamps in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. The containers and packages must remain closed and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

(iii) A large quantity handler of universal waste must store lamps accumulated in cardboard or fiber containers indoors, meaning in a structure that prevents a container from being exposed to the elements.

(21) Labeling/markinging.

A large quantity handler of universal waste must label or mark the universal waste to identify the type of universal waste as specified below:

(a) Universal waste batteries (that is, each battery), or a container or tank in which the batteries are contained, must be labeled or marked clearly with any one of the following phrases: "Universal Waste-Battery(ies)," or "Waste Battery(ies)," or "Used Battery(ies);"

(b)(i) Mercury-containing equipment (that is, each device), or a container in which the equipment is contained, must be labeled or marked clearly with any of the following phrases: "Universal Waste-Mercury-Containing Equipment," or "Waste Mercury-Containing Equipment," or "Used Mercury-Containing Equipment."

(ii) A universal waste mercury-containing thermostat or container containing only universal waste mercury-containing thermostats may be labeled or marked clearly with any of the following phrases: "Universal Waste-Mercury Thermostat(s)," "Waste Mercury Thermostat(s)," or "Used Mercury Thermostat(s)."

(c) Universal waste lamp (that is, each lamp), or a container in which the lamps are accumulated, must be labeled or marked clearly with any one of the following phrases: "Universal Waste Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)."

(22) Accumulation time limits.

(a) A large quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated, or received from another handler, unless the requirements of (b) of this subsection are met.

(b) A large quantity handler of universal waste may accumulate universal waste for longer than one year from the date the universal waste is generated, or received from another handler, if such activity is solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal. However, the handler bears the burden of proving that such activity was solely for the purpose of accumulation of such quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal.

(c) A large quantity handler of universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. The handler may make this demonstration by:
(i) Placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received;

(ii) Marking or labeling the individual item of universal waste (for example, each battery, thermostat, mercury-containing equipment, or lamp) with the date it became a waste or was received;

(iii) Maintaining an inventory system on site that identifies the date the universal waste being accumulated became a waste or was received;

(iv) Maintaining an inventory system on site that identifies the earliest date that any universal waste in a group of universal waste items or a group of containers of universal waste became a waste or was received;

(v) Placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received; or

(vi) Any other method which clearly demonstrates the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

(23) **Employee training.**

A large quantity handler of universal waste must ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relative to their responsibilities during normal facility operations and emergencies.

(24) **Response to releases.**

(a) A large quantity handler of universal waste must immediately contain all releases of universal wastes and other residues from universal wastes.

(b) A large quantity handler of universal waste must determine whether any material resulting from the release is dangerous waste, and if so, must manage the dangerous waste in compliance with all applicable requirements of this chapter. The handler is considered the generator of the material resulting from the release, and is subject to WAC 173-303-145 and 173-303-170 through 173-303-230.

(25) **Off-site shipments.**

(a) A large quantity handler of universal waste is prohibited from sending or taking universal waste to a place other than another universal waste handler, a destination facility, or a foreign destination.

(b) If a large quantity handler of universal waste self-transport universal waste off site, the handler becomes a universal waste transporter for those self-transportation activities and must comply with the transporter requirements of subsections (28) through (34) of this section while transporting the universal waste.

(c) If a universal waste being offered for off-site transportation meets the definition of hazardous materials under 49 C.F.R. 171 through 180, a large quantity handler of universal waste must package, label, mark and placard the shipment, and prepare the proper shipping papers in accordance with the applicable Department of Transportation regulations under 49 C.F.R. Parts 172 through 180;

(d) Prior to sending a shipment of universal waste to another universal waste handler, the originating handler must ensure that the receiving handler agrees to receive the shipment.

(e) If a large quantity handler of universal waste sends a shipment of universal waste to another handler or to a destination facility and the shipment is rejected by the receiving handler or destination facility, the originating handler must either:
(i) Receive the waste back when notified that the shipment has been rejected; or
(ii) Agree with the receiving handler on a destination facility to which the shipment will be sent.
(f) A large quantity handler of universal waste may reject a shipment containing universal waste, or a portion of a shipment containing universal waste that they have received from another handler. If a handler rejects a shipment or a portion of a shipment, they must contact the originating handler to notify them of the rejection and to discuss reshipment of the load. The handler must:
   (i) Send the shipment back to the originating handler; or
   (ii) If agreed to by both the originating and receiving handler, send the shipment to a destination facility.
(g) If a large quantity handler of universal waste receives a shipment containing dangerous waste that is not a universal waste, the handler must immediately notify the department of the illegal shipment, and provide the name, address, and phone number of the originating shipper. The department will provide instructions for managing the dangerous waste.
(h) If a large quantity handler of universal waste receives a shipment of nondangerous, nonuniversal waste, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.
(26) Tracking universal waste shipments.
   (a) Receipt of shipments. A large quantity handler of universal waste must keep a record of each shipment of universal waste received at the facility. The record may take the form of a log, invoice, manifest, bill of lading, movement document, or other shipping document. The record for each shipment of universal waste received must include the following information:
      (i) The name and address of the originating universal waste handler or foreign shipper from whom the universal waste was sent;
      (ii) The quantity of each type of universal waste received (for example, batteries, thermostats, mercury-containing equipment, or lamps);
      (iii) The date of receipt of the shipment of universal waste.
   (b) Shipments off site. A large quantity handler of universal waste must keep a record of each shipment of universal waste sent from the handler to other facilities. The record may take the form of a log, invoice, manifest, bill of lading, movement document, or other shipping document. The record for each shipment of universal waste sent must include the following information:
      (i) The name and address of the universal waste handler, destination facility, or foreign destination to whom the universal waste was sent;
      (ii) The quantity of each type of universal waste sent (for example, batteries, thermostats, mercury-containing equipment, or lamps);
      (iii) The date the shipment of universal waste left the facility.
   (c) Record retention.
      (i) A large quantity handler of universal waste must retain the records described in (a) of this subsection for at least three years from the date of receipt of a shipment of universal waste.
      (ii) A large quantity handler of universal waste must retain the records described in (b) of this subsection for at least three years from the date a shipment of universal waste left the facility.
(27) Exports.
A large quantity handler of universal waste who sends universal waste to a foreign destination (other than to those OECD countries specified in 40 C.F.R. 262.58 (a)(1) (in which case the handler)) is subject to the requirements of 40 C.F.R. Part 262, Subpart H which is incorporated by reference at WAC 173-303-230((1)) must:
(a) Comply with the requirements applicable to a primary exporter in 40 C.F.R. 262.53, 262.56 (a)(1) through (4), (6), and (b) and 262.57 which are incorporated by reference at WAC 173-303-230((1));
(b) Export such universal waste only upon consent of the receiving country and in conformance with the EPA Acknowledgment of Consent as defined in 40 C.F.R. 262 Subpart E which is incorporated by reference at WAC 173-303-230((1)); and
(c) Provide a copy of the EPA Acknowledgment of Consent for the shipment to the transporter transporting the shipment for export).

(28) **Applicability - Universal waste transporters.** Subsections (28) through (34) of this section apply to universal waste transporters (as defined in WAC 173-303-040).

(29) **Prohibitions.**
A universal waste transporter is:
(a) Prohibited from disposing of universal waste; and
(b) Prohibited from diluting or treating universal waste, except by responding to releases as provided in subsection (32) of this section.

(30) **Waste management.**
(a) A universal waste transporter must comply with all applicable U.S. Department of Transportation regulations in 49 C.F.R. Part 171 through 180 for transport of any universal waste that meets the definition of hazardous material in 49 C.F.R. 171.8. For purposes of the Department of Transportation regulations, a material is considered a dangerous waste if it is subject to the Hazardous Waste Manifest Requirements of the U.S. Environmental Protection Agency specified in WAC 173-303-180. Because universal waste does not require a dangerous waste manifest, it is not considered hazardous waste under the Department of Transportation regulations.
(b) Some universal waste materials are regulated by the Department of Transportation as hazardous materials because they meet the criteria for one or more hazard classes specified in 49 C.F.R. 173.2. As universal waste shipments do not require a manifest under WAC 173-303-180, they may not be described by the DOT proper shipping name "hazardous waste, (l) or (s), n.o.s.,” nor may the hazardous material's proper shipping name be modified by adding the word "waste."

(31) **Storage time limits.**
(a) A universal waste transporter may only store the universal waste at a universal waste transfer facility for ten days or less.
(b) If a universal waste transporter stores universal waste for more than ten days, the transporter becomes a universal waste handler and must comply with the applicable requirements for small or large quantity handlers (subsections (6) through (27) of this section) while storing the universal waste.

(32) **Response to releases.**
(a) A universal waste transporter must immediately contain all releases of universal wastes and other residues from universal wastes.
(b) A universal waste transporter must determine whether any material resulting from the release is dangerous waste, and if so, it is subject to all applicable requirements of this chapter. If the waste is determined to be a dangerous waste, the transporter is subject to WAC 173-303-145 and 173-303-170 through 173-303-230. 

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(33) **Off-site shipments.**

(a) A universal waste transporter is prohibited from transporting the universal waste to a place other than a universal waste handler, a destination facility, or a foreign destination.

(b) If the universal waste being shipped off site meets the Department of Transportation's definition of hazardous materials under 49 C.F.R. 171.8, the shipment must be properly described on a shipping paper in accordance with the applicable Department of Transportation regulations under 49 C.F.R. Part 172.

(34) **Exports.**

A universal waste transporter transporting a shipment of universal waste to a foreign destination (other than to those OECD countries specified in 40 C.F.R. 262.58(a)(1) in which case the handler) is subject to the requirements of 40 C.F.R. Part 262, Subpart H which is incorporated by reference at WAC 173-303-230. The transporter may not accept a shipment if the transporter knows the shipment does not conform to the EPA Acknowledgment of Consent. In addition the transporter must:

(a) A copy of the EPA Acknowledgment of Consent accompanies the shipment; and

(b) The shipment is delivered to the facility designated by the person initiating the shipment.

(35) **Applicability - Destination facilities.** Subsections (35) through (37) of this section apply to destination facilities.

(a) The owner or operator of a destination facility (as defined in WAC 173-303-040) is subject to all applicable requirements of WAC 173-303-140 and 173-303-141, 173-303-280 through 173-303-525, 173-303-600 through 173-303-695, 173-303-800 through 173-303-840, and the notification requirement at WAC 173-303-060; or

(b) The owner or operator of a destination facility that recycles a particular universal waste without storing that universal waste before it is recycled must comply with WAC 173-303-120(4)(c).

(36) **Off-site shipments.**

(a) The owner or operator of a destination facility is prohibited from sending or taking universal waste to a place other than a universal waste handler, another destination facility or foreign destination.

(b) The owner or operator of a destination facility may reject a shipment containing universal waste, or a portion of a shipment containing universal waste. If the owner or operator of the destination facility rejects a shipment or a portion of a shipment, (he) they must contact the shipper to notify (him) them of the rejection and to discuss reshipment of the load. The owner or operator of the destination facility must:

(i) Send the shipment back to the original shipper; or

(ii) If agreed to by both the shipper and the owner or operator of the destination facility, send the shipment to another destination facility.

(c) If the owner or operator of a destination facility receives a shipment containing dangerous waste that is not a universal waste, the owner or operator of the destination facility must immediately notify the department of the illegal shipment, and provide the name, address, and phone number of the shipper. The department will provide instructions for managing the dangerous waste.

(d) If the owner or operator of a destination facility receives a shipment of nondangerous, nonuniversal waste, the owner or operator
may manage the waste in any way that is in compliance with applicable federal or state solid waste regulations.

(37) Tracking universal waste shipments.
(a) The owner or operator of a destination facility must keep a record of each shipment of universal waste received at the facility. The record may take the form of a log, invoice, manifest, bill of lading, movement document, or other shipping document. The record for each shipment of universal waste received must include the following information:
   (i) The name and address of the universal waste handler, destination facility, or foreign shipper from whom the universal waste was sent;
   (ii) The quantity of each type of universal waste received (for example, batteries, thermostats, mercury-containing equipment, or lamps);
   (iii) The date of receipt of the shipment of universal waste.
(b) The owner or operator of a destination facility must retain the records described in (a) of this subsection for at least three years from the date of receipt of a shipment of universal waste.

(38) Imports.
Persons managing universal waste that is imported from a foreign country into the United States are subject to the applicable requirements of 40 C.F.R. Part 262, Subpart H (as incorporated by reference at WAC 173-303-230) and of this section, immediately after the waste enters the United States, as indicated in (a) through (c) of this subsection:
   (a) A universal waste transporter is subject to the universal waste transporter requirements of subsections (28) through (34) of this section.
   (b) A universal waste handler is subject to the small or large quantity handler of universal waste requirements of subsections (6) through (27) of this section, as applicable.
   (c) An owner or operator of a destination facility is subject to the destination facility requirements of subsections (35) through (37) of this section.

((4) Persons managing universal waste that is imported from an OECD country as specified at 40 C.F.R. 262.58 (a)(1), which is incorporated by reference at WAC 173-303-230(1), are subject to (a) through (e) of this subsection, in addition to the requirements of 40 C.F.R. Part 262 subpart H, which is incorporated by reference at WAC 173-303-230(1).))

(39) General - Petitions. Subsections (39) and (40) of this section address petitions to include other wastes under this section.
(a) Any person seeking to add a dangerous waste or a category of dangerous waste to this section may petition for a regulatory amendment under subsections (39) and (40) of this section and WAC 173-303-910 (1) and (7).
(b) To be successful, the petitioner must demonstrate to the satisfaction of the department that regulation under the universal waste regulations of this section is: Appropriate for the waste or category of waste; will improve management practices for the waste or category of waste; and will improve implementation of the dangerous waste program. The petition must include the information required by WAC 173-303-910 (1)(b). The petition should also address as many of the factors listed in subsection (40) of this section as are appropriate for the waste or waste category addressed in the petition.
The department will evaluate petitions using the factors listed in subsection (40) of this section. The department will grant or deny a petition using the factors listed in subsection (40) of this section. The decision will be based on the weight of evidence showing that regulation under this section is appropriate for the waste or category of waste, will improve management practices for the waste or category of waste, and will improve implementation of the dangerous waste program.

(40) **Factors for petitions to include other wastes under this section.**

(a) The waste or category of waste, as generated by a wide variety of generators, is listed in WAC 173-303-081 or 173-303-082, or (if not listed) a proportion of the waste stream exhibits one or more characteristics or criteria of dangerous waste identified in WAC 173-303-090 or 173-303-100. (When a characteristic waste is added to the universal waste regulations of this section by using a generic name to identify the waste category (for example, batteries), the definition of universal waste in WAC 173-303-040 will be amended to include only the dangerous waste portion of the waste category (for example, dangerous waste batteries).) Thus, only the portion of the waste stream that does exhibit one or more characteristics or criteria (that is, is dangerous waste) is subject to the universal waste regulations of this section;

(b) The waste or category of waste is not exclusive to a specific industry or group of industries, is commonly generated by a wide variety of types of establishments (including, for example, households, retail and commercial businesses, office complexes, conditionally exempt small quantity generators, small businesses, government organizations, as well as large industrial facilities);

(c) The waste or category of waste is generated by a large number of generators (for example, more than 1,000 nationally) and is frequently generated in relatively small quantities by each generator;

(d) Systems to be used for collecting the waste or category of waste (including packaging, marking, and labeling practices) would ensure close stewardship of the waste;

(e) The risk posed by the waste or category of waste during accumulation and transport is relatively low compared to other dangerous wastes, and specific management standards proposed or referenced by the petitioner (for example, waste management requirements appropriate to be added to subsections (9), (20), and (30) of this section; and/or applicable Department of Transportation requirements) would be protective of human health and the environment during accumulation and transport;

(f) Regulation of the waste or category of waste under this section will increase the likelihood that the waste will be diverted from nondangerous waste management systems (for example, the municipal waste stream, nondangerous industrial or commercial waste stream, municipal sewer or stormwater systems) to recycling, treatment, or disposal in compliance with the Hazardous Waste Management Act chapter 70.105 RCW, this chapter, and RCRA Subtitle C.

(g) Regulation of the waste or category of waste under this section will improve implementation of and compliance with the dangerous waste regulatory program; and/or

(h) Such other factors as may be appropriate.

(41) **Applicability - Household and conditionally exempt small quantity generator waste.**
(a) Persons managing the wastes listed below may, at their option, manage them under the requirements of this section:

(i) Household wastes that are exempt under WAC 173-303-071 (3)(c) and are also of the same type as the universal wastes defined at WAC 173-303-040; and/or

(ii) Small quantity generator wastes that are conditionally exempt under WAC 173-303-171 and are also of the same type as the universal wastes defined at WAC 173-303-040.

(b) Persons who commingle the wastes described in (a)(i) and (ii) of this subsection together with universal waste regulated under this section must manage the commingled waste under the requirements of this section.

AMENDATORY SECTION (Amending WSR 03-07-049, filed 3/13/03, effective 4/13/03)


(a) The rules in this section identify when military munitions become a solid waste, and, if these wastes are also dangerous under this section or WAC 173-303-016 through 173-303-100, the management standards that apply to these wastes.

(b) Unless otherwise specified in this section, all applicable requirements in this chapter apply to waste military munitions.

(2) Definition of solid waste.

(a) A military munition is not a solid waste when:

(i) Used for its intended purpose, including:

(A) Use in training military personnel or explosives and munitions emergency response specialists (including training in proper destruction of unused propellant or other munitions); or

(B) Use in research, development, testing, and evaluation of military munitions, weapons, or weapon systems; or

(C) Recovery, collection, and on-range destruction of unexploded ordnance and munitions fragments during range clearance activities at active or inactive ranges. However, "use for intended purpose" does not include the on-range disposal or burial of unexploded ordnance and contaminants when the burial is not a result of product use.

(ii) An unused munition, or component thereof, is being repaired, reused, recycled, reclaimed, disassembled, reconfigured, or otherwise subjected to materials recovery activities, unless such activities involve use constituting disposal as defined in WAC 173-303-016 (5)(a), or burning for energy recovery as defined in WAC 173-303-016 (5)(b).

(b) An unused military munition is a solid waste when any of the following occurs:

(i) The munition is abandoned by being disposed of, burned, detonated (except during intended use as specified in (a) of this subsection), incinerated, or treated prior to disposal; or

(ii) The munition is removed from storage in a military magazine or other storage area for the purpose of being disposed of, burned, or incinerated, or treated prior to disposal; or

(iii) The munition is deteriorated or damaged (for example, the integrity of the munition is compromised by cracks, leaks, or other damage) to the point that it cannot be put into serviceable condition, and cannot reasonably be recycled or used for other purposes; or
(iv) The munition has been declared a solid waste by an authorized military official.

(c) A used or fired military munition is a solid waste:

(i) When transported off range or from the site of use, where the site of use is not a range, for the purposes of storage, reclamation, treatment, disposal, or treatment prior to disposal; or

(ii) If recovered, collected, and then disposed of by burial, or landfiling either on or off a range.

(d) A used or fired military munition is a solid waste, and, therefore, is potentially subject to corrective action under WAC 173-303-646 or imminent and substantial endangerment authorities under WAC 173-303-960, if the munition lands off-range and is not promptly rendered safe and/or retrieved. Any imminent and substantial threats associated with any remaining material must be addressed. If remedial action is infeasible, the operator of the range must maintain a record of the event for as long as any threat remains. The record must include the type of munition and its location (to the extent the location is known).

(e) Military munitions at closed or transferred ranges. Munitions discharged during military activities are discarded material (and therefore solid waste) for purposes of WAC 173-303-646 under the following circumstance:

The munition is left in place at the firing range at the time the range is closed or when the range is transferred from military control, whichever occurs first.

3. Standards applicable to emergency responses.

Explosives and munitions emergencies involving military munitions or explosives are subject to WAC 173-303-170((45)) 6, 173-303-240(10), 173-303-400 (2)(c)(xiii), 173-303-600 (3)(p), and 173-303-800 (7)(c), or alternatively to WAC 173-303-804.

4. Standards applicable to the storage of solid waste military munitions.

(a) Criteria for dangerous waste regulation of waste non-chemical military munitions in storage.

(i) Waste military munitions in storage that exhibit a dangerous waste characteristic, criteria, or are listed as dangerous waste under WAC 173-303-070 are listed or identified as a dangerous waste (and thus are subject to regulation under this chapter), unless all the following conditions are met:

(A) The waste military munitions are not chemical agents or chemical munitions.

(B) The waste military munitions must be subject to the jurisdiction of the Department of Defense Explosives Safety Board (DDESB).

(C) The waste military munitions must be stored in accordance with the DDESB storage standards applicable to waste military munitions.

(D) Within ninety days of August 12, 1997, or within ninety days of when a storage unit is first used to store waste military munitions, whichever is later, the owner or operator must notify the department of the location of any waste storage unit used to store waste military munitions for which the conditional exemption in (a)(i) of this subsection is claimed.

(E) The owner or operator must provide oral notice to the department within twenty-four hours from the time the owner or operator becomes aware of any loss or theft of the waste military munitions, or any failure to meet a condition of (a)(i) of this subsection that may endanger health or the environment. In addition, a written submission
describing the circumstances must be provided within five days from the time the owner or operator becomes aware of any loss or theft of the waste military munitions or any failure to meet a condition of (a)(i) of this subsection.

(F) The owner or operator must inventory the waste military munitions at least annually, must inspect the waste military munitions at least quarterly for compliance with the conditions of (a)(i) of this subsection, and must maintain records of the findings of these inventories and inspections for at least three years.

(G) Access to the stored waste military munitions must be limited to appropriately trained and authorized personnel.

(ii) The conditional exemption in (a)(i) of this subsection from regulation as dangerous waste applies only to the storage of nonchemical waste military munitions. It does not affect the regulatory status of waste military munitions as dangerous wastes with regard to transportation, treatment or disposal.

(iii) The conditional exemption in (a)(i) of this subsection applies only so long as all of the conditions in (a)(i) of this subsection are met.

(b) Notice of termination of waste storage. The owner or operator must notify the department when a storage unit identified in (a)(i)(D) of this subsection will no longer be used to store waste military munitions.

(c) Reinstatement of conditional exemption. If any waste military munition loses its conditional exemption under (a)(i) of this subsection, an application may be filed with the department for reinstatement of the conditional exemption from dangerous waste storage regulation with respect to such munition as soon as the munition is returned to compliance with the conditions of (a)(i) of this subsection. If the department finds that reinstatement of the conditional exemption is appropriate based on factors such as the owner's or operator's provision of a satisfactory explanation of the circumstances of the violation, or a demonstration that the violations are not likely to recur, the department may reinstate the conditional exemption under (a)(i) of this subsection. If the director does not take action on the reinstatement application within sixty days after receipt of the application, then reinstatement will be deemed granted, retroactive to the date of the application. However, the department may terminate a conditional exemption reinstated by default in the preceding sentence if it finds that reinstatement is inappropriate based on factors such as the owner's or operator's failure to provide a satisfactory explanation of the circumstances of the violation, or failure to demonstrate that the violations are not likely to recur. In reinstating the conditional exemption under (a)(i) of this subsection, the department may specify additional conditions as are necessary to ensure and document proper storage to protect human health and the environment.

(d) Waste chemical munitions.

(i) Waste military munitions that are chemical agents or chemical munitions and that exhibit a hazardous waste characteristic or are listed as hazardous waste under WAC 173-303-070, are listed or identified as a hazardous waste and are subject to the applicable regulatory requirements of RCRA subtitle C and the Hazardous Waste Management Act.

(ii) Waste military munitions that are chemical agents or chemical munitions and that exhibit a hazardous waste characteristic or are listed as hazardous waste under WAC 173-303-070, are not subject to
the storage prohibition in RCRA section 3004(j), codified at 40 C.F.R. 268.50 (which is incorporated by reference at WAC 173-303-140 (2)(a)).

(e) Amendments to DDESB storage standards. The DDESB storage standards applicable to waste military munitions, referenced in subsection (4)(a)(i) of this section, are DOD 6055.9-STD ("DOD Ammunition and Explosive Safety Standards"), in effect on November 8, 1995, except as provided in the following sentence. Any amendments to the DDESB storage standards will become effective for purposes of subsection (4)(a)(i) of this section on the date the Department of Defense publishes notice in the Federal Register that the DDESB standards referenced in subsection (4)(a)(i) of this section have been amended.

(5) **Standards applicable to the treatment and disposal of waste military munitions.**

The treatment and disposal of dangerous waste military munitions are subject to the applicable permitting, procedural, and technical standards of this chapter.

**AMENDATORY SECTION** (Amending WSR 15-01-123, filed 12/18/14, effective 1/18/15)

**WAC 173-303-600 Final facility standards.** Purpose, scope, and applicability.

1. Final facility standards are established in WAC 173-303-600 through 173-303-695, and also include WAC 173-303-280 through 173-303-395. Final facility standards are minimum statewide standards which describe the acceptable management of dangerous waste.

2. The final facility standards apply to owners and operators of all facilities which treat, store or dispose of dangerous waste, and which are not exempted by subsection (3) of this section. Only permitted facilities which treat, store or dispose of dangerous waste and owners or operators of a facility which recycles dangerous waste in compliance with subsection (5) of this section can receive dangerous waste from off-site sources, unless exempted by subsection (3) of this section.

3. The final facility standards do not apply to:

   a. Persons whose disposal activities are permitted under the Marine Protection, Research and Sanctuaries Act, except that storage, or treatment facilities where dangerous waste is loaded onto an ocean vessel for incineration or disposal at sea are subject to final facility standards;

   b. Persons whose disposal activities are permitted under the underground injection control program of the Safe Drinking Water Act, except that storage, or treatment facilities needed to handle dangerous wastes are subject to final facility standards;

   c. The owner or operator of a POTW which treats, stores, or disposes of dangerous waste provided ((he has) they have) a permit by rule pursuant to the requirements of WAC 173-303-802(4);


   e. The owner or operator of a facility which is permitted to manage solid waste pursuant to chapter 173-350 WAC, if the only dangerous waste the facility manages is excluded from regulation under this chapter by WAC ((173-303-070(8))) 173-303-171;
(f) A farmer disposing of waste pesticides from ((his)) their own use provided ((he complies)) they comply with WAC 173-303-160 (2)(b);

(g) A transporter storing a manifested shipment of dangerous waste for ten days or less in accordance with WAC 173-303-240(6);

(h) Any person, other than an owner or operator who is already subject to the final facility standards, who is carrying out an immediate or emergency response to contain or treat a discharge or potential discharge of a dangerous waste or hazardous substance;

(i) The owner or operator of a facility which is in compliance with the interim status requirements of WAC 173-303-400 and 173-303-805, until final administrative disposition of ((his)) their final facility permit;

(j) The owner or operator of a totally enclosed treatment facility or elementary neutralization or wastewater treatment unit as defined in WAC 173-303-040, provided that ((he has)) they have a permit by rule pursuant to the requirements of WAC 173-303-802(5);

(k) The addition, by a generator, of absorbent material to waste in a container, or of waste to absorbent material in a container, provided that these actions occur at the time the waste is first placed in containers or, in the case of repackaging of previously containerized waste into new containers, at the time the waste is first placed into the new containers and the generator complies with all applicable requirements of WAC 173-303-200 ((1)(b)) and 173-303-201 for large quantity generators, WAC 173-303-172 for medium quantity generators, and WAC 173-303-395 (1)(a) and (b);

(l) The compaction or sorting of miscellaneous waste forms such as cans, rags, and bottles in a container, so long as the activity is solely for the purpose of reducing waste void space, and so long as these activities are conducted in a manner that protects human health and prevents any release to the environment and the generator complies with all applicable requirements of WAC 173-303-200 ((1)(b)) and 173-303-201 for large quantity generators, WAC 173-303-172 for medium quantity generators, and WAC 173-303-395 (1)(a) and (b);

(m) Generators treating dangerous waste on-site in tanks, containers, or containment buildings that are used for accumulation of such wastes provided the generator complies with the WAC 173-303-170 ((3)) (2)(b);

(n) The owner or operator of an elementary neutralization unit or a wastewater treatment unit as defined in WAC 173-303-040, provided that if the owner or operator is diluting hazardous ignitable (D001) wastes (other than the D001 High TOC Subcategory defined in 40 C.F.R. section 268.40, Table Treatment Standards for Hazardous Wastes), or reactive (D003) waste, to remove the characteristic before land disposal, the owner/operator must comply with the requirements set out in WAC 173-303-395 (1)(a);

(o) Universal waste handlers and universal waste transporters (as defined in WAC 173-303-040) handling the wastes listed below. These handlers are subject to regulation under WAC 173-303-573, when handling the below listed universal wastes.

(i) Batteries as described in WAC 173-303-573(2);

(ii) Mercury-containing equipment as described in WAC 173-303-573(3); and

(iii) Lamps as described in WAC 173-303-573(5);

(p)(i) Except as provided in (p)(ii) of this subsection, a person engaged in treatment or containment activities during immediate response to any of the following situations:

(A) A discharge of a dangerous waste;
(B) An imminent and substantial threat of a discharge of dangerous waste;
(C) A discharge of a material that, when discharged, becomes a dangerous waste;
(D) An immediate threat to human health, public safety, property, or the environment, from the known or suspected presence of military munitions, other explosive material, or an explosive device, as determined by an explosive or munitions emergency response specialist as defined in WAC 173-303-040.

(ii) An owner or operator of a facility otherwise regulated by WAC 173-303-600 must comply with all applicable requirements of WAC 173-303-340 and 173-303-350.

(iii) Any person who is covered by (p)(i) of this subsection and who continues or initiates dangerous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this chapter for those activities.

(iv) In the case of an explosives or munitions emergency response, if a federal, state, tribal or local official acting within the scope of (his or her) their official responsibilities, or an explosives or munitions emergency response specialist, determines that immediate removal of the material or waste is necessary to protect human health or the environment, that official or specialist may authorize the removal of the material or waste by transporters who do not have EPA/state identification numbers and without the preparation of a manifest. In the case of emergencies involving military munitions, the responding military emergency response specialist's organizational unit must retain records for three years identifying the dates of the response, the responsible persons responding, the type and description of material addressed, and its disposition;

(g) WAC 173-303-578 identifies when the requirements of WAC 173-303-600 apply to the storage of military munitions classified as solid waste under WAC 173-303-578(2). The treatment and disposal of dangerous waste military munitions are subject to the applicable permitting, procedural, and technical standards in this chapter.

(4) ((Reserved.)) (Reserved.)

(5) The owner or operator of a facility which recycles dangerous waste may, for such recycled wastes only, comply with the applicable recycling standards specified in WAC 173-303-120 and 173-303-500 through 173-303-525 in lieu of the final facility standards.

(6) The owner or operator must comply with the special land disposal restrictions for certain dangerous wastes in WAC 173-303-140.

(7) The final facility requirements apply to owners or operators of all facilities that treat, store, or dispose of hazardous wastes referred to in 40 C.F.R. Part 268, which is incorporated by reference at WAC 173-303-140(2).

AMENDATORY SECTION (Amending WSR 15-01-123, filed 12/18/14, effective 1/18/15)

(a) Subsections (2) through (6) of this section, (which concern closure), apply to the owners and operators of all dangerous waste facilities.
Subsections (7) through (11) of this section, (which concern post-closure care), apply to the owners and operators of all regulated units (as defined in WAC 173-303-040) at which dangerous waste will remain after closure, to tank systems that are required under WAC 173-303-640(8) to meet the requirements of landfills, to surface impoundments, waste piles, and miscellaneous units as specified in WAC 173-303-650(6), 173-303-660(9), and 173-303-680(4), respectively; to containment buildings that are required under 40 C.F.R. 264.1102 (incorporated by reference at WAC 173-303-695) to meet the requirements for landfills; and, unless otherwise authorized by the department, to the owners and operators of all facilities which, at closure, cannot meet the removal or decontamination limits specified in subsection (2)(b) of this section.

Owners and operators of off-site recycling facilities subject to WAC 173-303-120 (3) or (4), and off-site used oil processors subject to regulation under WAC 173-303-515(9) are subject to:

(i) WAC 173-303-610(2) Closure performance standard; and

(ii) WAC 173-303-610(12) Off-site recycling and used oil processor closure plans.

For the purposes of the closure and post-closure requirements, any portion of a facility which closes is subject to the applicable closure and post-closure standards even if the rest of the facility does not close and continues to operate.

Except for subsection (2)(a) of this section, the director may, in an enforceable document, replace all or part of the requirements of this section and the unit-specific requirements referenced in subsection (2)(b) of this section with alternative requirements when (he or she) determine(s):

(i) A dangerous waste unit is situated among other solid waste management units or areas of concern, a release has occurred, and both the dangerous waste unit and one or more of the solid waste management units or areas of concern are likely to have contributed to the release; and

(ii) It is not necessary to apply the requirements of this section (or the unit-specific requirements referenced in subsection (2)(b) of this section) because the alternative requirements will protect human health and the environment.

(2) Closure performance standard. The owner or operator must close the facility in a manner that:

(a)(i) Minimizes the need for further maintenance;

(ii) Controls, minimizes or eliminates to the extent necessary to protect human health and the environment, post-closure escape of dangerous waste, dangerous constituents, leachate, contaminated runoff, or dangerous waste decomposition products to the ground, surface water, groundwater, or the atmosphere; and

(iii) Returns the land to the appearance and use of surrounding land areas to the degree possible given the nature of the previous dangerous waste activity.

(b) Where the closure requirements of this section, or of WAC 173-303-630(10), 173-303-640(8), 173-303-650(6), 173-303-655(6), 173-303-655(8), 173-303-660(9), 173-303-665(6), 173-303-670(8), 173-303-680 (2) through (4), or 40 C.F.R. 264.1102 (incorporated by reference at WAC 173-303-695) call for the removal or decontamination of dangerous wastes, waste residues, or equipment, bases, liners, soils or other materials containing or contaminated with dangerous wastes or waste residue, then such removal or decontamination must as-
sure that the levels of dangerous waste or dangerous waste constituents or residues do not exceed:

(i) For soils, groundwater, surface water, and air, the numeric cleanup levels calculated using unrestricted use exposure assumptions according to the Model Toxics Control Act Regulations, chapter 173-340 WAC as of the effective date or hereafter amended. Primarily, these will be numeric cleanup levels calculated according to MTCA Method B, although MTCA Method A may be used as appropriate, see WAC 173-340-700 through 173-340-760, excluding WAC 173-340-745; and

(ii) For all structures, equipment, bases, liners, etc., clean closure standards will be set by the department on a case-by-case basis in accordance with the closure performance standards of WAC 173-303-610 (2)(a)(ii) and in a manner that minimizes or eliminates post-closure escape of dangerous waste constituents.

(3) Closure plan; amendment of plan.

(a) The owner or operator of a dangerous waste management facility must have a written closure plan. In addition, certain surface impoundments and waste piles from which the owner or operator intends to remove or decontaminate the dangerous waste at partial or final closure are required by WAC 173-303-650(6) and 173-303-660(9) to have contingent closure plans. The plan must be submitted with the permit application, in accordance with WAC 173-303-806(4), and approved by the department as part of the permit issuance procedures under WAC 173-303-840. The approved closure plan will become a condition of any permit. The department's decision must assure that the approved closure plan is consistent with subsections (2), (3), (4), (5), and (6) of this section, and the applicable requirements of WAC 173-303-630(10), 173-303-640(8), 173-303-645, 173-303-650(6), 173-303-655(8), 173-303-660(9), 173-303-665(6), 173-303-670(8), 173-303-680(2), and 40 C.F.R. 264.1102 (incorporated by reference at WAC 173-303-695). A copy of the approved plan and all revisions to the plan must be furnished to the department upon request, including request by mail until final closure is completed and certified in accordance with subsection (6) of this section. The plan must identify steps necessary to perform partial and/or final closure of the facility at any point during its active life. The closure plan must include at least:

(i) A description of how each dangerous waste management unit at the facility will be closed in accordance with subsection (2) of this section;

(ii) A description of how final closure of the facility will be conducted in accordance with subsection (2) of this section. The description must identify the maximum extent of the operation which will be unclosed during the active life of the facility;

(iii) An estimate of the maximum inventory of dangerous wastes ever on-site over the active life of the facility. (Any change in this estimate is a Class 1 modification with prior approval under WAC 173-303-830(4));

(iv) A detailed description of the methods to be used during partial closures and final closure, including, but not limited to, methods for removing, transporting, treating, storing, or disposing of all dangerous wastes, and identification of the type(s) of the off-site dangerous waste management units to be used, if applicable;

(v) A detailed description of the steps needed to remove or decontaminate all dangerous waste residues and contaminated containment system components, equipment, structures, and soils during partial and final closure, including, but not limited to, procedures for cleaning
(vi) A detailed description of other activities necessary during the closure period to ensure that all partial closures and final closure satisfy the closure performance standards, including, but not limited to, groundwater monitoring, leachate collection, and run-on and runoff control;

(vii) A schedule for closure of each dangerous waste management unit and for final closure of the facility. The schedule must include, at a minimum, the total time required to close each dangerous waste management unit and the time required for intervening closure activities which will allow tracking of the progress of partial and final closure. (For example, in the case of a landfill unit, estimates of the time required to treat or dispose of all dangerous waste inventory and of the time required to place a final cover must be included.);

and

(viii) For facilities that use trust funds to establish financial assurance under WAC 173-303-620 (4) or (6) and that are expected to close prior to the expiration of the permit, an estimate of the expected year of final closure.

(ix) For facilities where the director has applied alternative requirements under subsection (1)(e) of this section, WAC 173-303-645 (1)((e)) (f), or 173-303-620 (1)(d), the closure plan must include either the alternative requirements or a reference to the enforceable document that contains the alternative requirements.

(b) The owner or operator must submit a written notification of or request for a permit modification to authorize a change in operating plans, facility design, or the approved closure plan in accordance with the applicable procedures in WAC 173-303-800 through 173-303-840. The written notification or request must include a copy of the amended closure plan for review or approval by the department.

(i) The owner or operator may submit a written notification or request to the department for a permit modification to amend the closure plan at any time prior to the notification of partial or final closure of the facility.

(ii) The owner or operator must submit a written notification of or request for a permit modification to authorize a change in the approved closure plan whenever:

(A) Changes in operating plans or facility design affect the closure plan; or

(B) There is a change in the expected year of closure, if applicable; or

(C) In conducting partial or final closure activities, unexpected events require a modification of the approved closure plan; or

(D) The owner/operator requests the director apply alternative requirements under subsection (1)(e) of this section, WAC 173-303-645 (1)((e)) (f), or 173-303-620 (1)(d).

(iii) The owner or operator must submit a written request for a permit modification including a copy of the amended closure plan for approval at least sixty days prior to the proposed change in facility design or operation, or no later than sixty days after an unexpected event has occurred which has affected the closure plan. If an unexpected event occurs during the partial or final closure period, the owner or operator must request a permit modification no later than thirty days after the unexpected event. An owner or operator of a surface impoundment or waste pile that intends to remove all dangerous waste at
closure and is not otherwise required to prepare a contingent closure plan under WAC 173-303-650(6) or 173-303-660(9), must submit an amended closure plan to the department no later than sixty days from the date that the owner or operator or department determines that the dangerous waste management unit must be closed as a landfill, subject to the requirements of WAC 173-303-665, or no later than thirty days from that date if the determination is made during partial or final closure. The department will approve, disapprove, or modify this amended plan in accordance with the procedures in WAC 173-303-800 through 173-303-840. The approved closure plan will become a condition of any permit issued.

(iv) The department may request modifications to the plan under the conditions described in (b)(ii) of this subsection. The owner or operator must submit the modified plan within sixty days of the department's request, or within thirty days if the change in facility conditions occurs during partial or final closure. Any modifications requested by the department will be approved in accordance with the procedures in WAC 173-303-800 through 173-303-840.

(c) Notification of partial closure and final closure.

(i) The owner or operator must notify the department in writing at least sixty days prior to the date on which they expect to begin closure of a surface impoundment, waste pile, land treatment, or landfill unit, or final closure of a facility with such a unit. The owner or operator must notify the department in writing at least forty-five days prior to the date on which they expect to begin closure of a treatment or storage tank, container storage, or incinerator unit, or final closure of a facility with only such units.

(ii) The date when they "expect to begin closure" must be either:

(A) No later than thirty days after the date on which any dangerous waste management unit receives the known final volume of dangerous wastes or, if there is a reasonable possibility that the dangerous waste management unit will receive additional dangerous wastes, no later than one year after the date on which the unit received the most recent volume of dangerous waste. If the owner or operator of a dangerous waste management unit can demonstrate to the department that the dangerous waste management unit or facility has the capacity to receive additional dangerous wastes and they have taken, and will continue to take, all steps to prevent threats to human health and the environment, including compliance with all applicable permit requirements, the department may approve an extension to this one-year limit; or

(B) For units meeting the requirements of subsection (4)(d) of this section, no later than thirty days after the date on which the dangerous waste management unit receives the known final volume of nondangerous wastes, or if there is a reasonable possibility that the dangerous waste management unit will receive additional nondangerous wastes, no later than one year after the date on which the unit received the most recent volume of nondangerous wastes. If the owner or operator can demonstrate to the department that the dangerous waste management unit has the capacity to receive additional nondangerous wastes and they have taken, and will continue to take, all steps to prevent threats to human health and the environment, including compliance with all applicable permit requirements, the department may approve an extension to this one-year limit.

(iii) If the facility's permit is terminated, or if the facility is otherwise ordered, by judicial decree or final order to cease re-
ceiving dangerous wastes or to close, then the requirements of (c) of
this subsection do not apply. However, the owner or operator must
close the facility in accordance with the deadlines established in
subsection (4) of this section.

(iv) Removal of wastes and decontamination or dismantling of
equipment. Nothing in this subsection will preclude the owner or oper-
ator from removing dangerous wastes and decontaminating or dismantling
equipment in accordance with the approved partial or final closure
plan at any time before or after notification of partial or final clo-
sure.

(4) Closure; time allowed for closure.
(a) Within ninety days after receiving the final volume of dan-
gerous wastes, or the final volume of nondangerous wastes if the owner
or operator complies with all applicable requirements in (d) and (e)
of this subsection, at a dangerous waste management unit or facility,
the owner or operator must treat, remove from the unit or facility, or
dispose of on site, all dangerous wastes in accordance with the ap-
proved closure plan. The department may approve a longer period if the
owner or operator complies with all applicable requirements for re-
questing a modification to the permit and demonstrates that (he has)
they have taken and will continue to take all steps to prevent threats
to human health and the environment, including compliance with all ap-
plicable permit requirements, and either:
   (i) The activities required to comply with this paragraph will,
of necessity, take longer than ninety days to complete; or
   (ii) (A) The dangerous waste management unit or facility has the
capacity to receive additional dangerous wastes, or has the capacity
to receive nondangerous wastes if the owner or operator complies with
(d) and (e) of this subsection;
       (B) There is a reasonable likelihood that (he) they or another
person will recommence operation of the dangerous waste management
unit or the facility within one year; and
       (C) Closure of the dangerous waste management unit or facility
would be incompatible with continued operation of the site.

(b) The owner or operator must complete partial and final closure
activities in accordance with the approved closure plan and within one
hundred eighty days after receiving the final volume of dangerous
wastes, or the final volume of nondangerous wastes if the owner or op-
erator complies with all applicable requirements in (d) and (e) of
this subsection, at the dangerous waste management unit or facility.
The department may approve an extension to the closure period if the
owner or operator complies with all applicable requirements for re-
questing a modification to the permit and demonstrates that (he has)
they have taken and will continue to take all steps to prevent threats
to human health and the environment from the unclosed but not operat-
ing dangerous waste management unit or facility, including compliance
with all applicable permit requirements, and either:
   (i) The partial or final closure activities will, of necessity, take longer than one hundred eighty days to complete; or
   (ii) (A) The dangerous waste management unit or facility has the
capacity to receive additional dangerous wastes, or has the capacity
to receive nondangerous wastes if the owner or operator complies with
(d) and (e) of this subsection;
       (B) There is reasonable likelihood that (he) they or another
person will recommence operation of the dangerous waste management
unit or the facility within one year; and

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(C) Closure of the dangerous waste management unit or facility would be incompatible with continued operation of the site.

(c) The demonstrations referred to in (a)(i) and (ii) and (b)(i) and (ii) of this subsection must be made as follows: The demonstrations in (a)(i) and (ii) of this subsection must be made at least thirty days prior to the expiration of the specified ninety-day period; and the demonstration in (b)(i) and (ii) of this subsection must be made at least thirty days prior to the expiration of the specified one hundred eighty-day period unless the owner or operator is otherwise subject to the deadlines in (d) of this subsection.

(d) The department may allow an owner or operator to receive only nondangerous wastes in a landfill, land treatment, or surface impoundment unit after the final receipt of dangerous wastes at that unit if:

(i) The owner or operator requests a permit modification in compliance with all applicable requirements in WAC 173-303-830 and 40 C.F.R. Part 124 and in the permit modification request demonstrates that:

(A) The unit has the existing design capacity as indicated on the part A application to receive nondangerous wastes; and

(B) There is a reasonable likelihood that the owner or operator or another person will receive nondangerous wastes in the unit within one year after the final receipt of dangerous wastes; and

(C) The nondangerous wastes will not be incompatible with any remaining wastes in the unit, or with the facility design and operating requirements of the unit or facility under this part; and

(D) Closure of the dangerous waste management unit would be incompatible with continued operation of the unit or facility; and

(E) The owner or operator is operating and will continue to operate in compliance with all applicable permit requirements; and

(ii) The request to modify the permit includes an amended wastes analysis plan, groundwater monitoring and response program, human exposure assessment required under RCRA section 3019, and closure and post-closure plan, and updated cost estimates and demonstrations of financial assurance for closure and post-closure care as necessary and appropriate, to reflect any changes due to the presence of dangerous constituents in the nondangerous wastes, and changes in closure activities, including the expected year of closure if applicable under subsection (3)(a)(viii) of this section, as a result of the receipt of nondangerous wastes following the final receipt of dangerous wastes; and

(iii) The request to modify the permit includes revisions, as necessary and appropriate, to affected conditions of the permit to account for the receipt of nondangerous wastes following receipt of the final volume of dangerous wastes; and

(iv) The request to modify the permit and the demonstration referred to in (d)(i) and (ii) of this subsection are submitted to the department no later than one hundred twenty days prior to the date on which the owner or operator of the facility receives the known final volume of dangerous wastes at the unit, or no later than ninety days after the effective date of this rule in the state in which the unit is located, whichever is later.

(e) In addition to the requirements in (d) of this subsection, an owner or operator of a dangerous wastes surface impoundment that is not in compliance with the liner and leachate collection system requirements in 42 U.S.C. 3004 (o)(1) and 3005 (j)(1) or 42 U.S.C. 3004 (o)(2) or (3) or 3005 (j)(2), (3), (4) or (13) must:

(i) Submit with the request to modify the permit:
A contingent corrective measures plan, unless a corrective action plan has already been submitted under WAC 173-303-645(10); and

A plan for removing dangerous wastes in compliance with (e)(ii) of this subsection; and

(ii) Remove all dangerous wastes from the unit by removing all dangerous liquids, and removing all dangerous sludges to the extent practicable without impairing the integrity of the liner(s), if any.

(iii) Removal of dangerous wastes must be completed no later than ninety days after the final receipt of dangerous wastes. The department may approve an extension to this deadline if the owner or operator demonstrates that the removal of dangerous wastes will, of necessity, take longer than the allotted period to complete and that an extension will not pose a threat to human health and the environment.

(iv) If a release that is a statistically significant increase (or decrease in the case of pH) over background values for detection monitoring parameters of constituents specified in the permit or that exceeds the facility's groundwater protection standard at the point of compliance, if applicable, is detected in accordance with the requirements in WAC 173-303-645, the owner or operator of the unit:

(A) Must implement corrective measures in accordance with the approved contingent corrective measures plan required by (e)(i) of this subsection no later than one year after detection of the release, or approval of the contingent corrective measures plan, whichever is later;

(B) May continue to receive wastes at the unit following detection of the release only if the approved corrective measures plan includes a demonstration that continued receipt of wastes will not impede corrective action; and

(C) May be required by the department to implement corrective measures in less than one year or to cease the receipt of wastes until corrective measures have been implemented if necessary to protect human health and the environment.

(v) During the period of corrective action, the owner or operator must provide semiannual reports to the department that describe the progress of the corrective action program, compile all groundwater monitoring data, and evaluate the effect of the continued receipt of nondangerous wastes on the effectiveness of the corrective action.

(vi) The department may require the owner or operator to commence closure of the unit if the owner or operator fails to implement corrective action measures in accordance with the approved contingent corrective measures plan within one year as required in (e)(iv) of this subsection, or fails to make substantial progress in implementing corrective action and achieving the facility's groundwater protection standard or background levels if the facility has not yet established a groundwater protection standard.

(vii) If the owner or operator fails to implement corrective measures as required in (e)(iv) of this subsection or if the department determines that substantial progress has not been made pursuant to (e)(vi) of this subsection the department will:

(A) Notify the owner or operator in writing that the owner or operator must begin closure in accordance with the deadline in (a) and (b) of this subsection and provide a detailed statement of reasons for this determination; and

(B) Provide the owner or operator and the public, through a newspaper notice, the opportunity to submit written comments on the decision no later than twenty days after the date of the notice.
If the department receives no written comments, the decision will become final five days after the close of the comment period. The department will notify the owner or operator that the decision is final, and that a revised closure plan, if necessary, must be submitted within fifteen days of the final notice and that closure must begin in accordance with the deadlines in (a) and (b) of this subsection.

If the department receives written comments on the decision, it will make a final decision within thirty days after the end of the comment period, and provide the owner or operator in writing and the public through a newspaper notice, a detailed statement of reasons for the final decision. If the department determines that substantial progress has not been made, closure must be initiated in accordance with the deadlines in (a) and (b) of this subsection.

The final determinations made by the department under (e)(vii)(C) and (D) of this subsection are not subject to administrative appeal.

Disposal or decontamination of equipment, structures and soils. During the partial and final closure periods, all contaminated equipment, structures and soils must be properly disposed of or decontaminated unless otherwise specified in WAC 173-303-640(8), 173-303-650(6), 173-303-655(8), 173-303-660(9), 173-303-665(6), or under the authority of WAC 173-303-680 (2) and (4). By removing any dangerous wastes or dangerous constituents during partial and final closure, the owner or operator may become a generator of dangerous waste and must handle that waste in accordance with all applicable requirements of WAC 173-303-170 through 173-303-230.

Certification of closure. Within sixty days of completion of closure of each dangerous waste management unit (including tank systems and container storage areas), and within sixty days of the completion of final closure, the owner or operator must submit to the department by registered mail or other means that establish proof of receipt (including applicable electronic means), a certification that the dangerous waste management unit or facility, as applicable, has been closed in accordance with the specifications in the approved closure plan. The certification must be signed by the owner or operator and by an independent qualified registered professional engineer. Documentation supporting the independent qualified registered professional engineer’s certification must be furnished to the department upon request until it releases the owner or operator from the financial assurance requirements for closure under WAC 173-303-620(4).

Post-closure care and use of property.

(a) Post-closure care for each dangerous waste management unit subject to post-closure requirements must begin after completion of closure of the unit and continue for thirty years after that date and must consist of at least the following:


(ii) Maintenance and monitoring of waste containment systems as applicable.

(b) Any time preceding partial closure of a dangerous waste management unit subject to post-closure care requirements or final closure, or any time during the post-closure period for a particular unit, the department may, in accordance with the permit modification procedures in WAC 173-303-800 through 173-303-840:

(i) Shorten the post-closure care period applicable to the dangerous waste management unit, or facility, if all disposal units have
been closed, if it finds that the reduced period is sufficient to protect human health and the environment (e.g., leachate or groundwater monitoring results, characteristics of the dangerous waste, application of advanced technology, or alternative disposal, treatment, or reuse techniques indicate that the dangerous waste management unit or facility is secure); or

(ii) Extend the post-closure care period applicable to the dangerous waste management unit or facility if it finds that the extended period is necessary to protect human health and the environment (e.g., leachate or groundwater monitoring results indicate a potential for migration of dangerous waste at levels which may be harmful to human health and the environment).

(c) The department may require, at partial or final closure, continuation of any of the security requirements of WAC 173-303-310 during part or all of the post-closure period when:

(i) Dangerous wastes may remain exposed after completion of partial or final closure; or

(ii) Access by the public or domestic livestock may pose a hazard to human health.

(d) Post-closure use of property on or in which dangerous wastes remain after partial or final closure must never be allowed to disturb the integrity of the final cover, liner(s), or any other components of any containment system, or the function of the facility's monitoring systems, unless the department finds that the disturbance:

(i) Is necessary to the proposed use of the property, and will not increase the potential hazard to human health or the environment; or

(ii) Is necessary to reduce a threat to human health or the environment.

(e) All post-closure care activities must be in accordance with the provisions of the approved post-closure plan as specified in subsection (8) of this section.

(8) Post-closure plan; amendment of plan.

(a) The owner or operator of a dangerous waste disposal unit must have a written post-closure plan. In addition, certain surface impoundments and certain piles from which the owner or operator intends to remove or decontaminate the dangerous wastes at partial or final closure are required by WAC 173-303-650 and 173-303-660, respectively, to have written contingent post-closure plans. Owners or operators of surface impoundments and waste piles not otherwise required to prepare contingent post-closure plans under WAC 173-303-650 or 173-303-660 must submit a post-closure plan to the department within ninety days from the date that the owner or operator or department determines that the dangerous waste management unit must be closed as a landfill, subject to the post-closure requirements. The plan must be submitted with the permit application, in accordance with WAC 173-303-806, and approved by the department as part of the permit issuance procedures under WAC 173-303-840. The approved post-closure plan will become a condition of any permit issued.

(b) For each dangerous waste management unit subject to the requirements of this subsection, the post-closure plan must identify the activities which will be carried on after closure and the frequency of these activities, and include at least:

(i) A description of the planned groundwater monitoring activities and frequencies at which they will be performed;

(ii) A description of the planned maintenance activities, and frequencies at which they will be performed to comply with WAC

(A) The integrity of the cap and final cover or other containment structures in accordance with the requirements of 173-303-645, 173-303-650, 173-303-655, 173-303-660, 173-303-665, and 173-303-680; and

(B) The function of the facility monitoring equipment;

(iii) The name, address, and phone number of the person or office to contact about the dangerous waste disposal unit or facility during the post-closure care period;

(iv) And, for facilities where the director has applied alternative requirements under subsection (1)(e) of this section, WAC 173-303-645 (1)((e)) (f) or 173-303-620 ((8)) (1)(d), the post-closure plan must include either the alternative requirements or a reference to the enforceable document that contains the alternative requirements.

(c) Until final closure of the facility, a copy of the approved post-closure plan must be furnished to the department upon request, including request by mail. After final closure has been certified, the person or office specified in (b)(iii) of this subsection must keep the approved post-closure plan during the remainder of the post-closure period.

(d) Amendment of plan. The owner or operator must submit a written notification of or request for a permit modification to authorize a change in the approved post-closure plan in accordance with the applicable requirements of WAC 173-303-800 through 173-303-840. The written notification or request must include a copy of the amended post-closure plan for review or approval by the department.

(i) The owner or operator may submit a written notification or request to the department for a permit modification to amend the post-closure plan at any time during the active life of the facility or during the post-closure care period.

(ii) The owner or operator must submit a written notification of or request for a permit modification to authorize a change in the approved post-closure plan whenever:

(A) Changes in operating plans or facility design affect the approved post-closure plan; or

(B) There is a change in the expected year of final closure, if applicable; or

(C) Events which occur during the active life of the facility, including partial and final closures, affect the approved post-closure plan; or

(D) The owner/operator requests the director to apply alternative requirements under subsection (1)(e) of this section, WAC 173-303-645 (1)((e)) (f), or 173-303-620 (1)(d).

(iii) The owner or operator must submit a written request for a permit modification at least sixty days prior to the proposed change in facility design or operation, or no later than sixty days after an unexpected event has occurred which has affected the post-closure plan. An owner or operator of a surface impoundment or waste pile that intends to remove all dangerous waste at closure and is not otherwise required to submit a contingent post-closure plan under WAC 173-303-650 or 173-303-660 must submit a post-closure plan to the department no later than ninety days after the date that the owner or operator or department determines that the dangerous waste management unit must be closed as a landfill, subject to the requirements of WAC 173-303-665. The department will approve, disapprove, or modify this
plan in accordance with the procedures in WAC 173-303-800 through 173-303-840. The approved post-closure plan will become a permit condition.

(iv) The department may request modifications to the plan under the conditions described in (d)(ii) of this subsection. The owner or operator must submit the modified plan no later than sixty days after the department's request, or no later than ninety days if the unit is a surface impoundment or waste pile not previously required to prepare a contingent post-closure plan. Any modifications requested by the department will be approved, disapproved, or modified in accordance with the procedures in WAC 173-303-800 through 173-303-840.

(9) Notice to local land authority. No later than the submission of the certification of closure of each dangerous waste disposal unit, the owner or operator of a disposal facility must submit to the local zoning authority or the authority with jurisdiction over local land use and to the department a survey plat indicating the location and dimensions of landfill cells or other dangerous waste disposal units with respect to permanently surveyed benchmarks. This plat must be prepared and certified by a professional land surveyor. The plat filed with the local zoning authority or the authority with jurisdiction over local land use must contain a note, prominently displayed, which states the owner's or operator's obligation to restrict disturbance of the dangerous waste disposal unit in accordance with the applicable requirements of this section. In addition, no later than sixty days after certification of closure of each dangerous waste disposal unit, the owner or operator must submit to the local zoning authority or the authority with jurisdiction over local land use and to the department, a record of the type, location, and quantity of dangerous wastes disposed of within each cell or other disposal unit of the facility. For wastes disposed of before November 19, 1980 (March 12, 1982, for facilities subject to this chapter but not subject to 40 C.F.R. Part 264), the owner or operator must identify the type, location, and quantity of the dangerous wastes to the best of ((his)) their knowledge and in accordance with any records ((he has)) they have kept.

(10) Notice in deed to property.

(a) No later than sixty days after certification of closure of each dangerous waste disposal unit, the owner or operator must submit to the local zoning authority, or the authority with jurisdiction over local land use, and to the department a record of the type, location, and quantity of dangerous wastes disposed of within each cell or other disposal unit of the facility. For hazardous wastes (as defined in WAC 173-303-040) disposed of before January 12, 1981, the owner or operator must identify the type, location, and quantity of the dangerous wastes to the best of ((his)) their knowledge and in accordance with any records ((he has)) they have kept.

(b) Within sixty days of certification of closure of the first dangerous waste disposal unit and within sixty days of certification of closure of the last dangerous waste disposal unit, the owner or operator must:

(i) Record, in accordance with state law, a notation on the deed to the facility property, or on some other instrument which is normally examined during title search, that will in perpetuity notify any potential purchaser of the property that:

(A) The land has been used to manage dangerous wastes;
(B) Its use is restricted under this section; and
(C) The survey plat and record of the type, location, and quantity of dangerous wastes disposed of within each cell or other dangerous
waste disposal unit of the facility required in subsection (9) of this section have been filed with the local zoning authority, or the authority with jurisdiction over local land use, and with the department; and

(ii) Submit a certification, signed by the owner or operator, that (he has) they have recorded the notation specified in (b)(i) of this subsection, including a copy of the document in which the notation has been placed, to the department.

(c) If the owner or operator or any subsequent owner of the land upon which a dangerous waste facility was located wishes to remove dangerous wastes and dangerous waste residues, the liner, if any, or contaminated soils, (he) they must request a modification to the post-closure permit in accordance with the applicable requirements in WAC 173-303-800 through 173-303-840. The owner or operator must demonstrate that the removal of dangerous wastes will satisfy the criteria of subsection (7)(d) of this section. By removing dangerous waste, the owner or operator may become a generator of dangerous waste and must manage it in accordance with all applicable requirements of this chapter. If (he is) they are granted a permit modification or otherwise granted approval to conduct such removal activities, the owner or operator may request that the department approve either:

(i) The removal of the notation on the deed to the facility property or other instrument normally examined during title search; or

(ii) The addition of a notation to the deed or instrument indicating the removal of the dangerous waste.

(11) Certification of completion of post-closure care. No later than sixty days after completion of the established post-closure care period for each dangerous waste disposal unit, the owner or operator must submit to the department, by registered mail or other means that establish proof of receipt (including applicable electronic means), a certification that the post-closure care period for the dangerous waste disposal unit was performed in accordance with the specifications in the approved post-closure plan. The certification must be signed by the owner or operator and an independent qualified registered professional engineer. Documentation supporting the independent qualified registered professional engineer's certification must be furnished to the department upon request until (he) they release the owner or operator from the financial assurance requirements for post-closure care under WAC 173-303-620(6).

(12) Off-site recycling and used oil processor closure plans. The owner or operator of an off-site recycling facility subject to regulation under WAC 173-303-120 (3), (4), or used oil processor or rerefiner subject to WAC 173-303-515(9) must have a written closure plan.

(a) Submittal. For new facilities, the closure plan must be submitted with the notification required under WAC 173-303-060. For existing facilities, the closure plan must be submitted within one hundred eighty days of the effective date of this regulation. For closure plans denied under (b) of this subsection that will be resubmitted, the amended plan must be resubmitted within ninety days after the owner or operator receives the denial.

(b) Review by department. Decision to approve or deny. Closure plans must be submitted to department for review, comment, approval or denial. The department decision to approve a closure plan must assure it is consistent with requirements in subsections (2) and (12) of this section. The department decision to deny a closure plan must be justified on the inability or unwillingness of the owner and operator to meet requirements in subsections (2) and (12) of this section or WAC [ 227 ] OTS-9660.3
The department's decision may be appealed under the provisions of WAC 173-303-845.

(c) Availability. A copy of the approved closure plan and all updates to the plan must be maintained at the facility and furnished to the department upon request, including request by mail, until final closure is completed and certified in accordance with subsection (6) of this section.

(d) Contents of plan. The closure plan must identify steps necessary to perform final closure of recycling units at any point during its active life. The closure plan must include at least:

(i) An estimate of the maximum inventory of dangerous wastes or used oil ever on-site over the active life of the facility;

(ii) Descriptions, schedules, and disposal or decontamination procedures in subsections (3), (4), (5), (6) of this section, except any provisions dealing with permits, permit applications, modifications or approvals. The term "recycling unit" will replace the terms "dangerous waste management unit" or "regulated unit" in these subsections. Any references to permits or permit modifications in these subsections do not apply.

(e) Obligation to amend. At least sixty days prior to a major change at an off-site recycling or used oil processor/rerefining facility, the owners/operator of that facility must submit an amended closure plan. A major change may include the addition of a recycling or recovery process that is subject to WAC 173-303-120 (3) or (4), any increase in the maximum inventory of dangerous waste or used oil described in the previously approved closure plan, the closure of an existing recycling unit, or a change in ownership or operational control. The department must approve or deny, with justification, the revised closure plan. Refer to (a) of this subsection when a closure plan is denied if the closure plan needs to be resubmitted. Alternatively, the owner or operator may challenge the denial pursuant to WAC 173-303-845.

(f) Notification of closure. At least forty-five days prior to closure, an owner/operator must provide written notice to the department of intent to close.

(g) Relationship to closure plans for permitted facilities. A facility owner/operator that is subject to permitting and closure planning requirements for storage, treatment or disposal that is also required to prepare a closure plan for off-site recycling or used oil processing/rerefining, may satisfy the requirements of this subsection by combining all closure requirements in a single closure plan.

AMENDATORY SECTION (Amending WSR 15-01-123, filed 12/18/14, effective 1/18/15)

WAC 173-303-620 Financial requirements. (1) Applicability.

(a) The requirements of subsections (3), (4), (7), (8), (9), and (10) of this section, apply to owners and operators of all dangerous waste facilities, except as provided otherwise in this section.

(b) The requirements of subsections (5) and (6) of this section apply to owners and operators of:

(i) Dangerous waste disposal facilities;

(ii) Tank systems that are required under WAC 173-303-640(8) to meet the requirements of landfills;
(iii) Miscellaneous units as specified in WAC 173-303-680(4);
(iv) Waste piles and surface impoundments to the extent that WAC 173-303-650 and 173-303-660, respectively, require that such facilities comply with this section; and
(v) Containment buildings that are required under WAC 173-303-695 to meet the requirements for landfills.

(c) States and the federal government are exempt from the requirements of this section.

(i) Operators of state or federally owned facilities are exempt from the requirements of this section, except subsections (3) and (5) of this section.

(ii) Operators of facilities (who are under contract with (but not owned by) the state or federal government) that are not state or federally owned must meet all of the requirements of this section, even if the facility is leased by or otherwise under contract with the state or federal government.

(d) The director may, in an enforceable document, replace all or part of the requirements of this section with alternative requirements for financial assurance when (the or she) they:

(i) ((Applies)) Apply alternative requirements for groundwater monitoring, closure or post-closure under WAC 173-303-610 (1)(e) or 173-303-645 (1)((e)) (f); and

(ii) Determine((s)) that it is not necessary to apply the requirements of this section because the alternative requirements will protect human health and the environment.

(e) Except as provided in (c) of this subsection, the requirements of subsections (3), (4), (8), (9) and (10) of this section apply to owners and operators of off-site recycling facilities and processors/rerefiners of used oil, except the term "recycling unit" will replace the terms "dangerous waste management unit" or "regulated unit."

(i) If the closure plan for an off-site recycling or used oil processing/rerefining facility has not been approved by the department within one year of submittal to the department, the department may determine the closure cost estimate and direct the facility to establish financial assurance in that amount. Note that the schedule for partially funded trust funds for existing facilities of WAC 173-303-620 (4)(c)(i) may apply.

(ii) Relationship to closure cost estimates and financial responsibility for permitted facilities. A facility owner/operator that is subject to closure cost estimating and financial responsibility requirements for dangerous waste management units and recycling unit may choose to consolidate those requirements into a single mechanism for submittal to the department.

(2) Definitions. As used in this section, the following listed or referenced terms have the meanings given below:

(a) "Closure plan" means the plan for closure prepared in accordance with the requirements of WAC 173-303-610(3), or for off-site recycling or used oil processing facilities prepared in accordance with WAC 173-303-610(12);
(b) "Current closure cost estimate" means the most recent of the estimates prepared in accordance with subsection (3) of this section;
(c) "Current post-closure cost estimate" means the most recent of the estimates prepared in accordance with subsection (5) of this section;
(d) "Parent corporation" means a corporation which directly owns at least fifty percent of the voting stock of the corporation which is
the facility owner or operator; the latter corporation is deemed a
"subsidiary" of the parent corporation;
(e) "Post-closure plan" means the plan for post-closure care pre-
pared in accordance with the requirements of WAC 173-303-610 (7), (8),
(9), and (10);
(f) "Regional administrator" means the department;
(g) "Hazardous waste" means dangerous waste; and
(h) The additional terms listed and defined in 40 C.F.R. 264.141
(f), (g), and (h) are incorporated by reference.
(3) Cost estimate for facility closure.
(a) The owner or operator must have a detailed written estimate,
in current dollars, of the cost of closing the facility in accordance
with the requirements in WAC 173-303-610 (2) through (6), and applica-
ble closure requirements in WAC 173-303-630(10), 173-303-640(5),
173-303-650(6), 173-303-655(8), 173-303-660(9), 173-303-665(6),
173-303-670(8), 173-303-680 (2) through (4) and 173-303-695. The clo-
sure cost estimate:
(i) Must equal the cost of closure at the point in the facility's
operating life when the extent and manner of its operation would make
the most expensive, as indicated by its closure plan (see WAC
173-303-610 (3)(a));
(ii) Must be based on the costs to the owner or operator of hir-
ing a third party to close the facility. A third party is a party who
is neither a parent nor a subsidiary of the owner or operator. On a
case-by-case basis, the department may determine that a party that
shares common ownership, a common parent corporation, or other higher-
tier corporate ownership, may not qualify as a third party. (See defi-
nition of parent corporation in subsection (2)(d) of this section.)
The owner or operator may use costs for on-site disposal if the guar-
antor can demonstrate that on-site disposal capacity will exist at all
times over the life of the facility;
(iii) May not incorporate any salvage value that may be realized
with the sale of dangerous wastes, or nondangerous wastes if applica-
ble under WAC 173-303-610 (4)(d), facility structures or equipment,
land, or other assets associated with the facility at the time of par-
tial or final closure;
Except that, off-site recyclers subject to WAC 173-303-120 (3) or
(4), or off-site used oil processors subject to WAC 173-303-515(9) may
exclude the estimated value for certain types of recyclable materials
from the estimated cost of closing a recycling unit. This exclusion
may include dangerous wastes or used oil held in tanks or containers
that are dedicated solely to the management of recyclable materials
that will require only incidental processing prior to producing a
product that may be sold to the general public. Incidental processing
may include simple screening or filtering to remove minor amounts of
foreign material or removal of less than five percent water by volume;
(iv) May not incorporate a zero cost for dangerous wastes, or
nondangerous wastes if applicable under WAC 173-303-610 (4)(d), that
might have economic value; and
(v) May not be reduced for "net present value," "present discoun-
ted value," or other adjustments.
(b) During the active life of the facility, the owner or operator
must revise the closure cost estimate no later than thirty days after
the department has approved the request to modify the closure plan, if
the change in the closure plan increases the cost of closure. The re-
vised closure cost estimate must be adjusted for inflation as speci-
fied in (c)(i) and (ii) of this subsection.
(c) During the active life of the facility, the owner or operator must adjust the closure cost estimate for inflation within sixty days prior to the anniversary date of the establishment of the financial instrument(s) used to comply with this section. For owners and operators using the financial test or corporate guarantee, the closure cost estimate must be updated for inflation within thirty days after the close of the firm's fiscal year and before submission of updated information to the department as specified in subsection (4) of this section. The adjustment may be made by recalculating the maximum costs of closure in current dollars, or by using an inflation factor derived from the most recent Implicit Price Deflator for Gross National Product or Gross Domestic Product as published by the United States Department of Commerce in its survey of current business. The inflation factor is the result of dividing the latest published annual deflator by the deflator for the previous year.

(i) The first adjustment is made by multiplying the closure cost estimate by the inflation factor. The result is the adjusted closure cost estimate.

(ii) Subsequent adjustments are made by multiplying the latest adjusted closure cost estimate by the latest inflation factor.

(d) During the operating life of the facility, the owner or operator must keep at the facility the latest closure cost estimate prepared in accordance with (a) and (b) of this subsection, and, when this estimate has been adjusted in accordance with (c) of this subsection, the latest adjusted closure cost estimate.

(4) Financial assurance for facility closure.

(a) An owner or operator of a TSD, or off-site recycling or used oil processing/rerefining facility must establish financial assurance for closure of the facility. The owner or operator must choose from the following options or combination of options:

(i) Closure trust fund;

(ii) Surety bond guaranteeing payment into a closure trust fund;

(iii) Surety bond guaranteeing performance of closure;

(iv) Closure letter of credit;

(v) Closure insurance; or

(vi) Financial test and/or corporate guarantee for closure.

(b) In satisfying the requirements of financial assurance for facility closure in this subsection, the owner or operator must meet all the requirements for the mechanisms listed above as set forth in 40 C.F.R. 264.143 which are incorporated by reference. If the facilities covered by the mechanism are in more than one state, identical evidence of financial assurance must be submitted to and maintained with the state agency regulating hazardous waste or with the appropriate regional administrator if the facility is located in an unauthorized state.

(c) An owner or operator of an off-site recycling or used oil processing/rerefining facility may also meet the requirements of this subsection through the use of an assigned security deposit held in a Washington state bank. This mechanism is not available to an owner or operator of a TSD.

(i) The department will establish minimum standards for the assigned security deposit mechanism. These standards will include, but are not limited to, the language to be used in the assignment form. Copies of the assignment forms will be available from the department.

(ii) The department is not required to accept an assigned security deposit that does not meet the established minimum standards.

(d) 40 C.F.R. 264.143 is modified by the following requirements:
(i) Partially funded trust funds of 264.143 (a)(3) may not be accepted as a mechanism for a closure trust fund for TSDs. Owners and operators of existing used oil and recycling units that become subject to this section may establish a partially funded closure trust fund with a pay-in period of five years. The fund must be fully funded no later than five years (and the first, second, third, fourth, and fifth payments due no later than one, two, three, four, and five year(s) respectively) after the date of the department's approval of the closure plan under WAC 173-303-610 (12)(b);

(ii) Insurance companies providing closure coverage must have a current rating of financial strength of:
   (A) AAA, AA+, AA, AA-, A+, A as rated by Standard and Poor's;
   (B) Aaa, Aa1, Aa2, Aa3, A1, A2 as rated by Moody's; or
   (C) A++, A+, A, A-, B++, B+ as rated by A.M. Best;

(iii) Ecology must be named as secondary beneficiary on an insurance policy;

(iv) Facility owners/operators and corporate guarantors requesting the use of the financial test or corporate guarantee must meet a minimum tangible net worth criterion of twenty-five million dollars;

(v) Facility owners/operators and corporate guarantors requesting the use of the financial test or corporate guarantee are not required to submit a "negative assurance" report, such as the one detailed in 40 C.F.R. 264.143 (f)(3)(iii). A financial test or corporate guarantee submission must instead include a CPA report based on an "Agreed Upon Procedures" engagement that complies with the American Institute of Certified Public Accountants' "Statement on Auditing Standards No. 75, Engagements to apply Agreed-Upon Procedures to Specific Elements, Accounts or Items of a Financial Statement" or any subsequent equivalent document from AICPA. This report must describe the procedures performed and related findings, including whether or not there were discrepancies found in the comparison.

(e) Owners and operators of off-site recycling facilities regulated under WAC 173-303-120 (3) or (4), or used oil processing/rerefining facilities regulated under WAC 173-303-515(9), must demonstrate financial assurance for closure of the facility or recycling units. In addition to the requirements of 40 C.F.R. 264.143, as amended by this subsection, the financial assurance must meet the following requirements:

(i) For existing facilities choosing a surety bond guaranteeing payment, surety bond guaranteeing performance, letter of credit, insurance, financial test, corporate guarantee, or assigned security deposit, the mechanism must be established within thirty-six months of the effective date of this section;

(ii) Owners and operators of existing facilities choosing a partially funded trust fund mechanism must establish a fully funded trust fund within sixty months of approval of the closure plan by the department (see (c)(i) of this subsection);

(iii) For new facilities, financial assurance must be established and submitted to the department at least sixty days prior to the acceptance of the first shipment of wastes.

(f) Owners and operators of off-site recycling facilities regulated under WAC 173-303-120 (3) or (4), or used oil processing/rerefining facilities regulated under WAC 173-303-515(9) may request an alternative mechanism for financing the closure of recycling units that is determined by the department to be equivalent to one of the methods listed in (a) of this subsection. This may include any alternative mechanism as may be established through action by the Washington state
An assigned security deposit that meets the department's standards is an equivalent alternative mechanism within the meaning of this section.

(g) The amount of financial assurance for closure must not be less than the facility's current closure cost estimate. Financial assurance amounts, regardless of mechanism, may not be reduced for "net present value," "present discounted value," or other adjustments.

5 Cost estimate for post-closure monitoring and maintenance.

(a) The owner or operator of a facility subject to post-closure monitoring or maintenance requirements must have a detailed written estimate, in current dollars, of the annual cost of post-closure monitoring and maintenance of the facility in accordance with the applicable post-closure regulations in WAC 173-303-610 (7) through (10), 173-303-650 (6), 173-303-655 (8), 173-303-660 (9), 173-303-665 (6), and 173-303-680 (4). The post-closure cost estimate must be based on the costs to the owner or operator of hiring a third party to conduct post-closure care activities. A third party is a party who is neither a parent nor a subsidiary of the owner or operator. On a case-by-case basis, the department may determine that a party that shares common ownership, a common parent corporation, or other higher-tier corporate ownership may not qualify as a third party. (See definition of parent corporation in subsection (2)(d) of this section.) The post-closure cost estimate is calculated by multiplying the annual post-closure cost estimate by the number of years of post-closure care required by WAC 173-303-610.

(b) During the active life of the facility, the owner or operator must revise the post-closure cost estimate within thirty days after the department has approved the request to modify the post-closure plan, if the change in the post-closure plan increases the cost of post-closure care. The revised post-closure cost estimate must be adjusted for inflation as specified in (c)(i) and (ii) of this subsection.

(c) During the active life of the facility, the owner or operator must adjust the post-closure cost estimate for inflation within sixty days prior to the anniversary date of the establishment of the financial instrument(s) used to comply with subsection (6) of this section. For owners or operators using the financial test or corporate guarantee, the post-closure cost estimate must be updated for inflation within thirty days after the close of the firm's fiscal year and before the submission of updated information to the department as specified in subsection (6) of this section. The adjustment may be made by recalculating the post-closure cost estimate in current dollars or by using an inflation factor derived from the most recent Implicit Price Deflator for Gross National Product or Gross Domestic Product as published by the United States Department of Commerce in its Survey of Current Business. The inflation factor is the result of dividing the latest published annual deflator by the deflator for the previous year.

(i) The first adjustment is made by multiplying the post-closure cost estimate by the inflation factor. The result is the adjusted post-closure cost estimate.

(ii) Subsequent adjustments are made by multiplying the latest adjusted post-closure cost estimate by the latest inflation factor.

(d) During the operating life of the facility, the owner or operator must keep at the facility the latest post-closure cost estimate prepared in accordance with (a) and (b) of this subsection, and, when
this estimate has been adjusted in accordance with (c) of this subsection, the latest adjusted post-closure cost estimate.

(6) Financial assurance for post-closure monitoring and maintenance.

(a) An owner or operator of a facility subject to post-closure monitoring or maintenance requirements must establish financial assurance for post-closure care in accordance with the approved post-closure care plan. The owner or operator must choose from the following options or combination of options:

(i) Post-closure trust fund, except that the use of partially funded trust funds, as provided in 40 C.F.R. 264.145(a), will not be allowed by the department;

(ii) Surety bond guaranteeing payment into a post-closure trust fund;

(iii) Surety bond guaranteeing performance of post-closure care;

(iv) Post-closure letter of credit;

(v) Post-closure insurance; however, financial or insurance institutions providing such insurance must have a current rating of financial strength of:

(A) AAA, AA+, AA, AA-, A+, A as rated by Standard and Poor's;

(B) Aaa, Aa1, Aa2, Aa3, A1, A2 as rated by Moody's; or

(C) A++, A+, A, A-, B++, B+ as rated by A.M. Best; or

(vi) Financial test and/or corporate guarantee for post-closure care, except that the criterion for minimum tangible net worth in 40 C.F.R. 264.145(f) must be in an amount of at least twenty-five million dollars;

(vii) Facility owners/operators and corporate guarantors requesting the use of the financial test or corporate guarantee are not required to submit a "negative assurance" report, such as the one detailed in 40 C.F.R. 264.145 (f)(3)(iii). A financial test or corporate guarantee submission must instead include a CPA report based on an "Agreed Upon Procedures" engagement that complies with the American Institute of Certified Public Accountants' "Statement on Auditing Standards No. 75, Engagements to apply Agreed-Upon Procedures to Specific Elements, Accounts or Items of a Financial Statement" or any subsequent equivalent document from AICPA. This report must describe the procedures performed and related findings, including whether or not there were discrepancies found in the comparison.

(b) In satisfying the requirements of financial assurance for facility post-closure care in this subsection, the owner or operator must meet all the requirements set forth in 40 C.F.R. 264.145 which are incorporated by reference. If the facilities covered by the mechanism are in more than one state, identical evidence of financial assurance must be submitted to and maintained with the state agency regulating hazardous waste or with the appropriate regional administrator if the facility is located in an unauthorized state.

(c) The amount of financial assurance for post-closure must not be less than the facility's current post-closure cost estimate. Financial assurance amounts, regardless of mechanism, may not be reduced for "net present value," "present discounted value," or other adjustments.

(7) Use of a mechanism for financial assurance of both closure and post-closure care. An owner or operator may satisfy the requirements for financial assurance for both closure and post-closure care for one or more facilities by using a trust fund, surety bond, letter of credit, insurance, financial test, or corporate guarantee that meets the specifications for the mechanism in both 40 C.F.R. 264.143
and 264.145 which are incorporated by reference. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for financial assurance of closure and of post-closure care.

(8) Liability requirements.
   (a) An owner or operator of a TSD facility, off-site recycling or used oil processing/rerefining facility, or a group of such facilities must demonstrate financial responsibility for bodily injury and property damages to third parties caused by sudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator must meet the requirements of 40 C.F.R. 264.147(a), which is incorporated by reference, with the following additional requirements:
      (i) The owner or operator must have and maintain liability coverage for sudden accidental occurrences in the amount of at least two million dollars per occurrence with an annual aggregate of at least four million dollars, exclusive of legal defense costs. For facilities that meet the criteria listed in 40 C.F.R. 264.147(b), the owner or operator must have and maintain liability coverage for nonsudden accidental occurrences in the amount of five million dollars per occurrence with an annual aggregate of ten million dollars, exclusive of legal defense costs.
      (ii) Insurance companies providing liability coverage must have a current rating of financial strength of:
          (A) AAA, AA+, AA, AA-, A+, A as rated by Standard and Poor's;
          (B) Aaa, Aa1, Aa2, Aa3, A1, A2 as rated by Moody's; or
          (C) A++, A+, A, A-, B++, B+ as rated by A.M. Best;
      (iii) The department may file claims against liability insurance when contamination occurs as a result of releases or discharges of dangerous wastes or used oil from recycling units subject to regulation under this section to waters of the state as defined under chapter 90.48 RCW;
      (iv) Facility owners/operators and corporate guarantors requesting the use of the financial test and corporate guarantee must meet a minimum tangible net worth criterion of twenty-five million dollars.
   (b) An owner or operator of a facility with a regulated unit or units (as defined in WAC 173-303-040) or a disposal miscellaneous unit or units used to manage dangerous waste or a group of such facilities must demonstrate financial responsibility for bodily injury and property damage to third parties caused by nonsudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator must meet the requirements of 40 C.F.R. 264.147(b), 264.147 (f), (g), (h), (i), and (j) which are incorporated by reference.
   (c) Request for variance. If an owner or operator can demonstrate to the satisfaction of the department that the levels of financial responsibility required by (a) or (b) of this subsection are not consistent with the degree and duration of risk associated with treatment, storage, or disposal at the facility or group of facilities, the owner or operator may obtain a variance from the department. The request for a variance must be submitted to the department as part of the application under WAC 173-303-806(4) for a facility that does not have a permit, or pursuant to the procedures for permit modification under WAC 173-303-830 for a facility that has a permit. If granted, the variance will take the form of an adjusted level of required liability coverage, such level to be based on the department's assessment of the de-
gree and duration of risk associated with the ownership or operation of the facility or group of facilities. The department may require an owner or operator who requests a variance to provide such technical and engineering information as is deemed necessary by the department to determine a level of financial responsibility other than that required by (a) or (b) of this subsection. Any request for a variance for a permitted facility will be treated as a request for a permit modification under WAC 173-303-830.

(d) Adjustments by the department. If the department determines that the levels of financial responsibility required by (a) or (b) of this subsection are not consistent with the degree and duration of risk associated with treatment, storage, or disposal at the facility or group of facilities, the department may adjust the level of financial responsibility required under (a) or (b) of this subsection as may be necessary to protect human health and the environment. This adjusted level will be based on the department's assessment of the degree and duration of risk associated with the ownership or operation of the facility or group of facilities. In addition, if the department determines that there is a significant risk to human health and the environment from nonsudden accidental occurrences resulting from the operations of a facility that has no regulated units (as defined in WAC 173-303-040), it may require that the owner or operator of the facility comply with (b) of this subsection. An owner or operator must furnish to the department within a reasonable time, any information which the department requests to determine whether cause exists for such adjustments of level or type of coverage. Any adjustments of level or type of coverage for a facility that has a permit will be treated as a permit modification under WAC 173-303-830.

(e) Period of coverage. An owner or operator must continuously provide liability coverage for a facility as required by this subsection until certifications of closure of the facility, as specified in WAC 173-303-610(6), are received by the department.

(f) The following subsections are incorporated by reference: 40 C.F.R. section 264.147(f), Financial test for liability coverage, (g) Guarantee for liability coverage, (h) Letter of credit for liability coverage, (i) Surety bond for liability coverage, and (j) Trust fund for liability coverage.

(9) Incapacity of owners or operators, guarantor or financial institutions.

(a) An owner or operator must notify the department by certified mail of the commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), United States Code, naming the owner or operator as debtor, within ten days after commencement of the proceeding. A guarantor of a corporate guarantee as specified in 40 C.F.R. 264.143(f) and 264.145(f) must make such a notification if the guarantor is named as debtor, as required under the terms of the corporate guarantee (40 C.F.R. 264.151(h)).

(b) An owner or operator who fulfills the requirements of 40 C.F.R. 264.143, 264.145, or 264.147 (a) or (b) by obtaining a trust fund, surety bond, letter of credit, or insurance policy will be deemed to be without the required financial assurance or liability coverage in the event of bankruptcy of the trustee or issuing institution, or a suspension or revocation of the authority of the trustee institution to act as trustee or of the institution issuing the surety bond, letter of credit, or insurance policy to issue such instruments. The owner or operator must establish other financial assurance or liability coverage within sixty days after such an event.

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(10) Wording of the instruments. The financial instruments required by this section must contain the wording specified by 40 C.F.R. 264.151 which is incorporated by reference, except that:

(a) The words "regional administrator" and "environmental protection agency" must be replaced with the words Washington state department of ecology;

(b) The words "hazardous waste" must be replaced with the words "dangerous waste";

(c) Any other words specified by the department must be changed as necessary to assure financial responsibility of the facility in accordance with the requirements of this section; and

(d) Whenever 40 C.F.R. 264.151 requires that owners and operators notify several regional administrators of their financial obligations, the owner or operator must notify both the department and all regional administrators of regions that are affected by the owner or operator's financial assurance mechanisms.

Copies of the financial instruments with the appropriate word changes will be available from the department by June 30, 1984.

(11) Financial assurance requirements for corrective action sites are detailed in WAC 173-303-64620(5).

AMENDATORY SECTION (Amending WSR 15-01-123, filed 12/18/14, effective 1/18/15)

WAC 173-303-630 Use and management of containers. (1) Applicability. The regulations in this section apply to owners and operators of all dangerous waste facilities that store dangerous waste in containers ((of dangerous waste)).

(2) Condition of containers. If a container holding dangerous waste is not in good condition (e.g., severe corroding or rusting((7)) or flaking or scaling, and/or apparent structural defects) or if it begins to leak, the owner or operator must transfer the dangerous waste from the container to a container that is in good condition or manage the waste in some other way that complies with the requirements of chapter 173-303 WAC. In addition, the owner or operator must address leaks and spills in accordance with the applicable provisions of WAC 173-303-145 and 173-303-360.

(3) Identification of containers. The owner or operator ((must)) storing dangerous waste in containers must do the following:

(a) Clearly label or mark containers ((in a manner which adequately identifies the major risk(s))) with the words "Dangerous Waste" or "Hazardous Waste" where the label or marking is legible from a distance of twenty-five feet or the lettering size is a minimum of one-half inch in height.

(b) Clearly label or mark containers with an indication of the hazards of the contents (example includes, but is not limited to, the applicable dangerous waste characteristic(s) and criteria of ignitable, corrosive, reactive and toxic and the applicable hazard(s) identified for listed dangerous wastes). The label or marking must be:

(i) Legible and/or recognizable from a distance of twenty-five feet or the lettering size is a minimum of one-half inch in height; and

(ii) Include descriptive word(s) and/or pictogram(s) that identifies the hazards associated with the contents of the containers for
employees, emergency response personnel, waste handlers, and the public. (Note: If there is already a system in use that performs this function in accordance with local, state or federal regulations, then such system will be adequate). The owner or operator must.

(c) Affix labels upon transfer of dangerous wastes from one container to another. The owner or operator must destroy or otherwise remove labels from the emptied container, unless the container will continue to be used for storing dangerous waste at the facility. (The owner or operator must)

(d) Ensure that labels are not obscured, removed, or otherwise unreadable in the course of inspection required under WAC 173-303-320.

(4) Compatibility of waste with containers. The owner or operator must use a container made of or lined with materials which will not react with, and are otherwise compatible with, the dangerous waste to be stored, so that the ability of the container to contain the waste is not impaired.

(5) Management of containers.

(a) A container holding dangerous waste must always be closed, except when it is necessary to add or remove waste.

(b) A container holding dangerous waste must not be opened, handled, or stored in a manner which may rupture the container or cause it to leak.

(c) A minimum thirty-inch separation is required between aisles of containers holding dangerous waste(s). A row of drums must be no more than two drums wide) aisle space separation is required between rows of containers. A row of containers must be no more than two wide and allow for unobstructed inspection of each container.

(6) Inspections. (At least weekly,)) The owner or operator must ((inspect)) conduct "weekly inspections" (as defined in WAC 173-303-040), of areas where containers are stored, looking for leaking containers and for deterioration of containers and the containment system caused by corrosion, deterioration, or other factors. The owner or operator must keep ((an)) a written or electronic inspection log including at least the date and time of the inspection, the printed name and the handwritten or electronic signature of the inspector, a notation of the observations made and the date and nature of any repairs or remedial actions taken. The log must be kept at the facility for at least five years from the date of inspection.

(7) Containment.

(a) Container storage areas must have a containment system that is capable of collecting and holding spills and leaks. In addition to the necessary leak containment capacity, uncovered storage areas must be capable of holding the additional volume that would result from the precipitation of a maximum twenty-five year storm of twenty-four hours duration. The containment system must:

(i) Have a base underlying the containers which is free of cracks or gaps and is sufficiently impervious to contain leaks, spills, and accumulated rainfall until the collected material is detected and removed. The base must be sloped or the containment system must be otherwise designed and operated to drain and remove liquids resulting from leaks, spills, or precipitation, unless the containers are elevated or are otherwise protected from contact with accumulated liquids;

(ii) Be designed for positive drainage control (such as a locked drainage valve) to prevent release of contaminated liquids and so that uncontaminated precipitation can be drained promptly for convenience of operation. Spilled or leaked waste and accumulated precipitation
must be removed from the containment system in as timely a manner as is necessary to prevent overflow; and

(iii) Have sufficient capacity to contain ten percent of the volume of all containers or the volume of the largest container, whichever is greater. Only containers holding free liquids, or holding wastes designated as F020, F021, F022, F023, F026, or F027 need to be considered in this determination.

(b) Run-on into the containment system must be prevented, unless the department waives this requirement in the permit after determining that the collection system has sufficient excess capacity in addition to that required in (a)(iii) of this subsection to accommodate any run-on which might enter the system.

(c) Storage areas that store containers holding only wastes that do not contain free liquids, do not exhibit either the characteristic of ignitability or reactivity as described in WAC 173-303-090 (5) or (7), and are not designated as F020, F021, F022, F023, F026, or F027, need not have a containment system as described in this subsection: Provided, That:

(i) The storage area is sloped or is otherwise designed and operated to drain and remove liquid resulting from precipitation; or

(ii) The containers are elevated or are otherwise protected from contact with accumulated liquids.

(d) The department may require owners and operators to protect their containers from the elements by means of a building or other protective covering if the department determines that such protection is necessary to prevent a release of waste or waste constituents due to the nature of the waste or design of the container. The building or other protective covering must allow adequate inspection under subsection (6) of this section.

(8) Special requirements for ignitable or reactive waste.

(a) Containers holding reactive waste exhibiting a characteristic specified in WAC 173-303-090 (7)(a)(vi), (vii) or (viii) must be stored in a manner equivalent to the separation distances for storage of explosives in the International Fire Code's "American Table of Distances for Storage of Explosives" Table 3304.5.2(2) or "Table of Separation Distances for Low Explosives" Table 3304.5.2(3), 2003) Code, 2015 edition, or the version adopted by the local fire district.

(b) The owner or operator must design, operate, and maintain ignitable waste and reactive waste (other than a reactive waste which must meet (a) of this subsection) container storage in a manner equivalent with the International Fire Code. Where no specific standard or requirements are specified in the International Fire Code, or in existing state or local fire codes, applicable sections of the NFPA ("Flammable and Combustible Liquids Code," must be used. The owner/operator must also comply with the requirements of WAC 173-303-395 (1)(d).

(9) Special requirements for incompatible wastes.

(a) Incompatible wastes, or incompatible wastes and materials must not be placed in the same container, unless WAC 173-303-395 (1)(b) is complied with.

(b) Dangerous waste must not be placed in an unwashed container that previously held an incompatible waste or material.

(c) A storage container holding a dangerous waste that is incompatible with any waste or other materials stored nearby in other containers, piles, open tanks, or surface impoundments must be separated from the other materials or protected from them by means of a dike,
berm, wall, or other device. Containment systems for incompatible wastes must be separate.

(10) Closure. At closure, all dangerous waste and dangerous waste residues must be removed from the containment system. Remaining containers, liners, bases, and soil containing or contaminated with dangerous waste or dangerous waste residues must be decontaminated or removed.

(11) Air emission standards. The owner or operator must manage all hazardous waste placed in a container in accordance with the applicable requirements of 40 C.F.R. Subparts AA, BB, and CC, which are incorporated by reference at WAC 173-303-690 through 173-303-692.

AMENDATORY SECTION (Amending WSR 15-01-123, filed 12/18/14, effective 1/18/15)

WAC 173-303-640 Tank systems. (1) Applicability.

(a) The regulations in WAC 173-303-640 apply to owners and operators of facilities that use tank systems to treat or store dangerous waste, except as (b), (c), and (d) of this subsection provides otherwise.

(b) Tank systems that are used to store or treat dangerous waste which contain no free liquids and are situated inside a building with an impermeable floor are exempted from the requirements in subsection (4) of this section. To demonstrate the absence or presence of free liquids in the stored/treated waste, the Paint Filter Liquids Test Method 9095B described in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods" EPA Publication SW-846 as incorporated by reference at WAC 173-303-110 (3)(a) must be used.

(c) Tank systems, including sumps, as defined in WAC 173-303-040, that serve as part of a secondary containment system to collect or contain releases of dangerous wastes are exempted from the requirements in subsection (4)(a) of this section.

(d) Tanks, sumps, and other such collection devices or systems used in conjunction with drip pads, as defined in WAC 173-303-040 and regulated under WAC 173-303-675, must meet the requirements of this section.

(2) Assessment of existing tank system's integrity.

(a) For each existing tank system, the owner or operator must determine that the tank system is not leaking or is (unfit) fit for use. Except as provided in (b) of this subsection, the owner or operator must obtain and keep on file at the facility a written assessment reviewed and certified by an independent, qualified registered professional engineer, in accordance with WAC 173-303-810 (13)(a), that attests to the tank system's integrity by January 12, 1988, for underground tanks that do not meet the requirements of subsection (4) of this section and that cannot be entered for inspection, or by January 12, 1990, for all other tank systems.

(b) Tank systems that store or treat materials that become dangerous wastes subsequent to January 12, 1989, must conduct this assessment within twelve months after the date that the waste becomes a dangerous waste.

(c) This assessment must determine that the tank system is adequately designed and has sufficient structural strength and compatibility with the waste(s) to be stored or treated, to ensure that it
will not collapse, rupture, or fail. At a minimum, this assessment must consider the following:

(i) Design standard(s), if available, according to which the tank system was constructed;
(ii) Dangerous characteristics of the waste(s) that have been and will be handled;
(iii) Existing corrosion protection measures;
(iv) Documented age of the tank system, if available (otherwise, an estimate of the age); and
(v) Results of a leak test, internal inspection, or other tank system integrity examination such that:

(A) For nonenterable underground tanks, the assessment must include a leak test that is capable of taking into account the effects of temperature variations, tank end deflection, vapor pockets, and high water table effects; and

(B) For other than nonenterable underground tanks and for ancillary equipment, this assessment must include either a leak test, as described above, or other integrity examination, that is certified by an independent, qualified, registered professional engineer, in accordance with WAC 173-303-810 (13)(a), that addresses cracks, leaks, corrosion, and erosion.

Note: Three publications may be used, where applicable, as guidelines in conducting other than a leak test: Tank Inspection, Repair, Alteration, and Reconstruction, API Standard 653, Fourth Edition, April 2009; Guidance for Assessing and Certifying Tank Systems that Store and Treat Dangerous Waste, Ecology Publication No. 94-114; and Steel Tank Institute publication #SP001-05 Standard for the Inspection of Aboveground Storage Tanks 5th Edition, revised September 2011.

(d) If, as a result of the assessment conducted in accordance with (a) of this subsection, a tank system is found to be leaking or unfit for use, the owner or operator must comply with the requirements of subsection (7) of this section.

(e) The owner or operator must develop a schedule for conducting integrity assessments over the life of the tank to ensure that the tank retains its structural integrity and will not collapse, rupture, or fail. The schedule must be based on the results of past integrity assessments, age of the tank system, materials of construction, characteristics of the waste, and any other relevant factors.

(3) Design and installation of new tank systems or components.

(a) Owners or operators of new tank systems or components must obtain (and for facilities that are pursuing or have obtained a final status permit, submit to the department, at time of submittal of Part B information) a written assessment, reviewed and certified by an independent, qualified registered professional engineer, in accordance with WAC 173-303-810 (13)(a), attesting that the tank system has sufficient structural integrity and is acceptable for the storing and treating of dangerous waste. The assessment must show that the foundation, structural support, seams, connections, and pressure controls (if applicable) are adequately designed and that the tank system has sufficient structural strength, compatibility with the waste(s) to be stored or treated, and corrosion protection to ensure that it will not collapse, rupture, or fail. This assessment (which will be used by the department to review and approve or disapprove the acceptability of the tank system design at facilities which are pursuing or have obtained a final status permit) must include, at a minimum, the following information:

(i) Design standard(s) according to which tank system(s) are constructed;
(ii) Dangerous characteristics of the waste(s) to be handled;
For new tank systems or components in which the external shell of a metal tank or any external metal component of the tank system will be in contact with the soil or with water, a determination by a corrosion expert of:

(A) Factors affecting the potential for corrosion, including but not limited to:
   (I) Soil moisture content;
   (II) Soil pH;
   (III) Soil sulfides level;
   (IV) Soil resistivity;
   (V) Structure to soil potential;
   (VI) Influence of nearby underground metal structures (e.g., piping);
   (VII) Existence of stray electric current;
   (VIII) Existing corrosion-protection measures (e.g., coating, cathodic protection); and
(B) The type and degree of external corrosion protection that are needed to ensure the integrity of the tank system during the use of the tank system or component, consisting of one or more of the following:
   (I) Corrosion-resistant materials of construction such as special alloys, fiberglass reinforced plastic, etc.;
   (II) Corrosion-resistant coating (such as epoxy, fiberglass, etc.,) with cathodic protection (e.g., impressed current or sacrificial anodes); and
   (III) Electrical isolation devices such as insulating joints, flanges, etc.

Note: The practices described in the National Association of Corrosion Engineers (NACE) standard, "Recommended Practice (RP-02-85) -- Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems," and the American Petroleum Institute (API) Publication 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems," may be used, where applicable, as guidelines in providing corrosion protection for tank systems.

(iv) For underground tank system components that are likely to be adversely affected by vehicular traffic, a determination of design or operational measures that will protect the tank system against potential damage; and

(v) Design considerations to ensure that:
   (A) Tank foundations will maintain the load of a full tank;
   (B) Tank systems will be anchored to prevent flotation or dislodgment where the tank system is either placed in a saturated zone, or is located less than five hundred feet from a fault which has had displacement in Holocene times; and
   (C) Tank systems will withstand the effects of frost heave.

(b) The owner or operator must develop a schedule for conducting integrity assessments over the life of the tank to ensure that the tank retains its structural integrity and will not collapse, rupture or fail. The schedule must be based on the results of past integrity assessments, age of the tank system, materials of construction, characteristics of the waste, and any other relevant factors.

(c) The owner or operator of a new tank system must ensure that proper handling procedures are adhered to in order to prevent damage to the system during installation. Prior to covering, enclosing, or placing a new tank system or component in use, an independent, qualified installation inspector or an independent, qualified, registered professional engineer, either of whom is trained and experienced in the proper installation of tank systems or components, must inspect the system for the presence of any of the following items:
   (i) Weld breaks;
(ii) Punctures;
(iii) Scrapes of protective coatings;
(iv) Cracks;
(v) Corrosion;
(vi) Other structural damage or inadequate construction/installation.

All discrepancies must be remedied before the tank system is covered, enclosed, or placed in use.

(d) New tank systems or components that are placed underground and that are backfilled must be provided with a backfill material that is a noncorrosive, porous, homogeneous substance and that is installed so that the backfill is placed completely around the tank and compacted to ensure that the tank and piping are fully and uniformly supported.

(e) All new tanks and ancillary equipment must be tested for tightness prior to being covered, enclosed, or placed in use. If a tank system is found not to be tight, all repairs necessary to remedy the leak(s) in the system must be performed prior to the tank system being covered, enclosed, or placed into use.

(f) Ancillary equipment must be supported and protected against physical damage and excessive stress due to settlement, vibration, expansion, or contraction.

Note: The piping system installation procedures described in American Petroleum Institute (API) Publication 1615 (November 1979), “Installation of Underground Petroleum Storage Systems,” or ANSI Standard B31.3; “Petroleum Refinery Piping,” and ANSI Standard B31.4 “Liquid Petroleum Transportation Piping System,” may be used, where applicable, as guidelines for proper installation of piping systems.

(g) The owner or operator must provide the type and degree of corrosion protection recommended by an independent corrosion expert, based on the information provided under (a)(iii) of this subsection, or other corrosion protection if the department believes other corrosion protection is necessary to ensure the integrity of the tank system during use of the tank system. The installation of a corrosion protection system that is field fabricated must be supervised by an independent corrosion expert to ensure proper installation.

(h) The owner or operator must obtain and keep on file at the facility written statements by those persons required to certify the design of the tank system and supervise the installation of the tank system in accordance with the requirements of (b) through (g) of this subsection, that attest that the tank system was properly designed and installed and that repairs, pursuant to (c) and (e) of this subsection, were performed. These written statements must also include the certification statement as required in WAC 173-303-810 (13)(a).

(4) Containment and detection of releases.

(a) In order to prevent the release of dangerous waste or dangerous constituents to the environment, secondary containment that meets the requirements of this subsection must be provided (except as provided in (f) and (g) of this subsection):

(i) For all new and existing tank systems or components, prior to their being put into service.

(ii) For tank systems that store or treat materials that become dangerous wastes, within two years of the dangerous waste listing, or when the tank system has reached fifteen years of age, whichever comes later.

(b) Secondary containment systems must be:

(i) Designed, installed, and operated to prevent any migration of wastes or accumulated liquid out of the system to the soil, groundwater, or surface water at any time during the use of the tank system; and
(ii) Capable of detecting and collecting releases and accumulated liquids until the collected material is removed.

(c) To meet the requirements of (b) of this subsection, secondary containment systems must be at a minimum:

(i) Constructed of or lined with materials that are compatible with the waste(s) to be placed in the tank system and must have sufficient strength and thickness to prevent failure owing to pressure gradients (including static head and external hydrological forces), physical contact with the waste to which it is exposed, climatic conditions, stress of installation, and the stress of daily operations (including stresses from nearby vehicular traffic);

(ii) Placed on a foundation or base capable of providing support to the secondary containment system, resistance to pressure gradients above and below the system, and capable of preventing failure due to settlement, compression, or uplift;

(iii) Provided with a leak-detection system that is designed and operated so that it will detect the failure of either the primary or secondary containment structure or the presence of any release of dangerous waste or accumulated liquid in the secondary containment system within twenty-four hours, or at the earliest practicable time if the owner or operator can demonstrate to the department that existing detection technologies or site conditions will not allow detection of a release within twenty-four hours; and

(iv) Sloped or otherwise designed or operated to drain and remove liquids resulting from leaks, spills, or precipitation. Spilled or leaked waste and accumulated precipitation must be removed from the secondary containment system within twenty-four hours, or in as timely a manner as is possible to prevent harm to human health and the environment, if the owner or operator can demonstrate to the department that removal of the released waste or accumulated precipitation cannot be accomplished within twenty-four hours.

Note: If the collected material is a dangerous waste under WAC 173-303-070, it is subject to management as a dangerous waste in accordance with all applicable requirements of WAC 173-303-170 through 173-303-400 and WAC 173-303-600 through 173-303-695. If the collected material is discharged through a point source to waters of the United States, it is subject to the requirements of sections 301, 304, and 402 of the Clean Water Act, as amended. If discharged to a publicly owned treatment works (POTW), it is subject to the requirements of section 307 of the Clean Water Act, as amended. If the collected material is released to the environment, it may be subject to the reporting requirements of 40 C.F.R. Part 302.

(d) Secondary containment for tanks must include one or more of the following devices:

(i) A liner (external to the tank);

(ii) A vault;

(iii) A double-walled tank; or

(iv) An equivalent device as approved by the department.

(e) In addition to the requirements of (b), (c), and (d) of this subsection, secondary containment systems must satisfy the following requirements:

(i) External liner systems must be:

(A) Designed or operated to contain one hundred percent of the capacity of the largest tank within its boundary;

(B) Designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system unless the collection system has sufficient excess capacity to contain run-on or infiltration. Such additional capacity must be sufficient to contain precipitation from a twenty-five-year, twenty-four-hour rainfall event.

(C) Free of cracks or gaps; and

(D) Designed and installed to surround the tank completely and to cover all surrounding earth likely to come into contact with the waste
if the waste is released from the tank(s) (i.e., capable of preventing lateral as well as vertical migration of the waste).

(ii) Vault systems must be:

(A) Designed or operated to contain one hundred percent of the capacity of the largest tank within its boundary;

(B) Designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system unless the collection system has sufficient excess capacity to contain run-on or infiltration. Such additional capacity must be sufficient to contain precipitation from a twenty-five-year, twenty-four-hour rainfall event;

(C) Constructed with chemical-resistant water stops in place at all joints (if any);

(D) Provided with an impermeable interior coating or lining that is compatible with the stored waste and that will prevent migration of waste into the concrete;

(E) Provided with a means to protect against the formation of and ignition of vapors within the vault, if the waste being stored or treated:

(I) Meets the definition of ignitable waste under WAC 173-303-090(5); or

(II) Meets the definition of reactive waste under WAC 173-303-090(7), and may form an ignitable or explosive vapor; and

(F) Provided with an exterior moisture barrier or be otherwise designed or operated to prevent migration of moisture into the vault if the vault is subject to hydraulic pressure.

(iii) Double-walled tanks must be:

(A) Designed as an integral structure (i.e., an inner tank completely enveloped within an outer shell) so that any release from the inner tank is contained by the outer shell;

(B) Protected, if constructed of metal, from both corrosion of the primary tank interior and of the external surface of the outer shell; and

(C) Provided with a built-in continuous leak detection system capable of detecting a release within twenty-four hours, or at the earliest practicable time, if the owner or operator can demonstrate to the department, and the department concludes, that the existing detection technology or site conditions would not allow detection of a release within twenty-four hours.

Note: The provisions outlined in the Steel Tank Institute's (STI) "Standard for Dual Wall Underground Steel Storage Tanks" may be used as guidelines for aspects of the design of underground steel double-walled tanks.

(f) Ancillary equipment must be provided with secondary containment (e.g., trench, jacketing, double-walled piping) that meets the requirements of (b) and (c) of this subsection except for:

(i) Aboveground piping (exclusive of flanges, joints, valves, and other connections) that are visually inspected for leaks on a daily basis;

(ii) Welded flanges, welded joints, and welded connections, that are visually inspected for leaks on a daily basis;

(iii) Sealless or magnetic coupling pumps and sealless valves, that are visually inspected for leaks on a daily basis; and

(iv) Pressurized aboveground piping systems with automatic shut-off devices (e.g., excess flow check valves, flow metering shutdown devices, loss of pressure actuated shutoff devices) that are visually inspected for leaks on a daily basis.

(g) The owner or operator may obtain a variance from the requirements of this subsection if the department finds, as a result of a demonstration by the owner or operator that alternative design and op-
erating practices, together with location characteristics, will pre-
vent the migration of any dangerous waste or dangerous constituents
into the groundwater, or surface water at least as effectively as sec-
ondary containment during the active life of the tank system or that
in the event of a release that does migrate to groundwater or surface
water, no substantial present or potential hazard will be posed to hu-
man health or the environment. New underground tank systems may not,
per a demonstration in accordance with (g)(ii) of this subsection, be
exempted from the secondary containment requirements of this section.

(i) In deciding whether to grant a variance based on a demonstra-
tion of equivalent protection of groundwater and surface water, the
department will consider:
   (A) The nature and quantity of the wastes;
   (B) The proposed alternate design and operation;
   (C) The hydrogeologic setting of the facility, including the
       thickness of soils present between the tank system and groundwater; and
   (D) All other factors that would influence the quality and mobi-
       lity of the dangerous constituents and the potential for them to mi-
       grate to groundwater or surface water.

(ii) In deciding whether to grant a variance based on a demon-
stration of no substantial present or potential hazard, the department
will consider:
   (A) The potential adverse effects on groundwater, surface water,
       and land quality taking into account:
       (I) The physical and chemical characteristics of the waste in the
           tank system, including its potential for migration;
       (II) The hydrogeological characteristics of the facility and sur-
           rounding land;
       (III) The potential for health risks caused by human exposure to
           waste constituents;
       (IV) The potential for damage to wildlife, crops, vegetation, and
           physical structures caused by exposure to waste constituents; and
       (V) The persistence and permanence of the potential adverse ef-
           fects.
   (B) The potential adverse effects of a release on groundwater
       quality, taking into account:
       (I) The quantity and quality of groundwater and the direction of
           groundwater flow;
       (II) The proximity and withdrawal rates of groundwater users;
       (III) The current and future uses of groundwater in the area; and
       (IV) The existing quality of groundwater, including other sources
           of contamination and their cumulative impact on the groundwater quali-
           ty.
   (C) The potential adverse effects of a release on surface water
       quality, taking into account:
       (I) The quantity and quality of groundwater and the direction of
           groundwater flow;
       (II) The patterns of rainfall in the region;
       (III) The proximity of the tank system to surface waters;
       (IV) The current and future uses of surface waters in the area
           and any water quality standards established for those surface waters; and
       (V) The existing quality of surface water, including other sour-
           ces of contamination and the cumulative impact on surface-water quali-

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(D) The potential adverse effects of a release on the land surrounding the tank system, taking into account:
(I) The patterns of rainfall in the region; and
(II) The current and future uses of the surrounding land.
(iii) The owner or operator of a tank system, for which a variance from secondary containment had been granted in accordance with the requirements of (g)(i) of this subsection, at which a release of dangerous waste has occurred from the primary tank system but has not migrated beyond the zone of engineering control (as established in the variance), must:
(A) Comply with the requirements of subsection (7) of this section, except subsection (7)(d) of this section; and
(B) Decontaminate or remove contaminated soil to the extent necessary to:
(I) Enable the tank system for which the variance was granted to resume operation with the capability for the detection of releases at least equivalent to the capability it had prior to the release; and
(II) Prevent the migration of dangerous waste or dangerous constituents to groundwater or surface water.
(C) If contaminated soil cannot be removed or decontaminated in accordance with (g)(iii)(B) of this subsection, comply with the requirements of subsection (8) of this section.
(iv) The owner or operator of a tank system, for which a variance from secondary containment had been granted in accordance with the requirements of (g)(i) of this subsection, at which a release of dangerous waste has occurred from the primary tank system and has migrated beyond the zone of engineering control (as established in the variance), must:
(A) Comply with the requirements of subsection (7)(a), (b), (c), and (d) of this section; and
(B) Prevent the migration of dangerous waste or dangerous constituents to groundwater or surface water, if possible, and decontaminate or remove contaminated soil. If contaminated soil cannot be decontaminated or removed or if groundwater has been contaminated, the owner or operator must comply with the requirements of subsection (8)(b) of this section; and
(C) If repairing, replacing, or reinstalling the tank system, provide secondary containment in accordance with the requirements of (a) through (f) of this subsection or reapply for a variance from secondary containment and meet the requirements for new tank systems in subsection (3) of this section if the tank system is replaced. The owner or operator must comply with these requirements even if contaminated soil can be decontaminated or removed and groundwater or surface water has not been contaminated.
(h) The following procedures must be followed in order to request a variance from secondary containment:
(i) The department must be notified in writing by the owner or operator that (he) intend(s) to conduct and submit a demonstration for a variance from secondary containment as allowed in (g) of this subsection according to the following schedule:
(A) For existing tank systems, at least twenty-four months prior to the date that secondary containment must be provided in accordance with (a) of this subsection.
(B) For new tank systems, at least thirty days prior to entering into a contract for installation.
(ii) As part of the notification, the owner or operator must also submit to the department a description of the steps necessary to con-
duct the demonstration and a timetable for completing each of the steps. The demonstration must address each of the factors listed in (g)(i) or (ii) of this subsection;

(iii) The demonstration for a variance must be completed within one hundred eighty days after notifying the department of an intent to conduct the demonstration; and

(iv) If a variance is granted under this subsection, the department will require the permittee to construct and operate the tank system in the manner that was demonstrated to meet the requirements for the variance.

(i) All tank systems, until such time as secondary containment that meets the requirements of this section is provided, must comply with the following:

(i) For nonenterable underground tanks, a leak test that meets the requirements of subsection (2)(c)(v) of this section or other tank integrity method, as approved or required by the department, must be conducted at least annually.

(ii) For other than nonenterable underground tanks, the owner or operator must either conduct a leak test as in (i)(i) of this subsection or develop a schedule and procedure for an assessment of the overall condition of the tank system by an independent, qualified registered professional engineer. The schedule and procedure must be adequate to detect obvious cracks, leaks, and corrosion or erosion that may lead to cracks and leaks. The owner or operator must remove the stored waste from the tank, if necessary, to allow the condition of all internal tank surfaces to be assessed. The frequency of these assessments must be based on the material of construction of the tank and its ancillary equipment, the age of the system, the type of corrosion or erosion protection used, the rate of corrosion or erosion observed during the previous inspection, and the characteristics of the waste being stored or treated.

(iii) For ancillary equipment, a leak test or other integrity assessment as approved by the department must be conducted at least annually.

Note: Three publications may be used, where applicable, as guidelines for assessing the overall condition of the tank system: *Tank Inspection, Repair, Alteration, and Reconstruction*, API Standard 653, Fourth Edition, April 2009; *Guidance for Assessing and Certifying Tank Systems that Store and Treat Dangerous Waste*, Ecology Publication No. 94-114; and *Steel Tank Institute* publication #SP001-05 Standard for the Inspection of Aboveground Storage Tanks 5th Edition, revised September 2011.

(iv) The owner or operator must maintain on file at the facility a record of the results of the assessments conducted in accordance with (i)(i) through (iii) of this subsection.

(v) If a tank system or component is found to be leaking or unfit for use as a result of the leak test or assessment in (i)(i) through (iii) of this subsection, the owner or operator must comply with the requirements of subsection (7) of this section.

(5) General operating requirements.

(a) Dangerous wastes or treatment reagents must not be placed in a tank system if they could cause the tank, its ancillary equipment, or the containment system to rupture, leak, corrode, or otherwise fail.

(b) The owner or operator must use appropriate controls and practices to prevent spills and overflows from tank or containment systems. These include at a minimum:

(i) Spill prevention controls (e.g., check valves, dry disconnect couplings);
Overfill prevention controls (e.g., level sensing devices, high level alarms, automatic feed cutoff, or bypass to a standby tank); and

Maintenance of sufficient freeboard in uncovered tanks to prevent overtopping by wave or wind action or by precipitation.

(c) The owner or operator must comply with the requirements of subsection (7) of this section if a leak or spill occurs in the tank system.

(d) All tank systems holding dangerous waste must be:

(i) Marked with labels or signs to identify the waste contained in the tank (the label or sign must be legible at a distance of at least fifty feet, and must bear a legend which identifies the waste in a manner which adequately warns). For underground tank systems, labels or signs must be either placed on aboveground postings above each underground tank system or at each entrance to the active portion (area where the underground tank system is located).

(ii) Clearly marked or labeled with the words "Dangerous Waste" or "Hazardous Waste" legible at a distance of at least fifty feet, and for underground tank systems, the markings or labels must either be placed on aboveground postings above each underground tank system or at each entrance to the active portion (area where the underground tank system is located).

(iii) Clearly marked or labeled with an indication of the hazards of the contents (example includes, but is not limited to, the applicable dangerous waste characteristic(s) and criteria of ignitable, corrosive, reactive and toxic and the applicable hazard(s) identified for listed dangerous wastes) legible at a distance of at least fifty feet. All hazard labels must include descriptive word(s) and/or pictogram(s) that identifies the hazards associated with the waste being stored or treated in the tank system(s) for the public, employees, emergency response personnel, and (the public of the major risk(s) associated with the waste being stored or treated in the tank system(s). (Note—If there already is a system in use that performs this function in accordance with local, state or federal regulations, then such system will be adequate.)) waste handlers. For underground tank systems, markings or labels of the hazards of the contents of the tank system must either be placed on above-ground postings above each underground tank system, or at each entrance to the active portion (area where the underground tank system is located).

(e) All tank systems holding dangerous wastes which are acutely or chronically toxic by inhalation must be designed to prevent escape of vapors, fumes, or other emissions into the air.

(6) Inspections.

(a) The owner or operator must develop and follow a schedule and procedure for inspecting overfill controls.

(b) The owner or operator must inspect at least once each operating day:

(i) Aboveground portions of the tank system, if any, to detect corrosion or releases of waste;

(ii) Data gathered from monitoring (any) and leak detection equipment (e.g., pressure or temperature gauges, monitoring wells) to ensure that the tank system is being operated according to its design; and

(iii) The construction materials and the area immediately surrounding the externally accessible portion of the tank system, including the secondary containment system (e.g., dikes) to detect erosion.
or signs of releases of dangerous waste (e.g., wet spots, dead vegetation).

Note: WAC 173-303-320 requires the owner or operator to remedy any deterioration or malfunction they find(s). Subsection (7) of this section requires the owner or operator to notify the department within twenty-four hours of confirming a leak. Also, 40 C.F.R. Part 302 may require the owner or operator to notify the National Response Center of a release.

(c) The owner or operator must inspect cathodic protection systems, if present, according to, at a minimum, the following schedule to ensure that they are functioning properly:
   (i) The proper operation of the cathodic protection system must be confirmed within six months after initial installation and annually thereafter; and
   (ii) All sources of impressed current must be inspected and/or tested, as appropriate, at least bimonthly (i.e., every other month).

Note: The practices described in the National Association of Corrosion Engineers (NACE) standard, “Recommended Practice (RP-02-85)—Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems,” and the American Petroleum Institute (API) Publication 1632, “Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems,” may be used, where applicable, as guidelines in maintaining and inspecting cathodic protection systems.

(d) The owner or operator must document in the operating record of the facility an inspection of those items in (a) through (c) of this subsection. The owner or operator must keep a written or electronic inspection log including at least the date and time of the inspection, the printed name and the handwritten or electronic signature of the inspector, a notation of the observations made and the date and nature of any repairs or remedial actions taken. The log must be kept at the facility for at least five years from the date of inspection.

(7) Response to leaks or spills and disposition of leaking or unfit-for-use tank systems.
   A tank system or secondary containment system from which there has been a leak or spill, or which is unfit for use, must be removed from service immediately, and the owner or operator must satisfy the following requirements:
   (a) Cessation of use; prevent flow or addition of wastes. The owner or operator must immediately stop the flow of dangerous waste into the tank system or secondary containment system and inspect the system to determine the cause of the release.
   (b) Removal of waste from tank system or secondary containment system.
      (i) If the release was from the tank system, the owner/operator must, within twenty-four hours after detection of the leak or, if the owner/operator demonstrates that it is not possible, at the earliest practicable time, remove as much of the waste as is necessary to prevent further release of dangerous waste to the environment and to allow inspection and repair of the tank system to be performed.
      (ii) If the material released was to a secondary containment system, all released materials must be removed within twenty-four hours or in as timely a manner as is possible to prevent harm to human health and the environment.
   (c) Containment of visible releases to the environment. The owner/operator must immediately conduct a visual inspection of the release and, based upon that inspection:
      (i) Prevent further migration of the leak or spill to soils or surface water; and
      (ii) Remove, and properly dispose of, any visible contamination of the soil or surface water.
   (d) Notifications, reports.
      (i) Any release to the environment must be reported to the department and other authorities immediately in accordance with WAC
Any release above the "reportable quantity" must also be reported to the National Response Center pursuant to 40 C.F.R. Part 302.

(ii) Within thirty days (or fifteen days if classified as an emergency) of detection of a release to the environment, a report containing the following information must be submitted to the department:

(A) Likely route of migration of the release;

(B) Characteristics of the surrounding soil (soil composition, geology, hydrogeology, climate);

(C) Results of any monitoring or sampling conducted in connection with the release (if available). If sampling or monitoring data relating to the release are not available within thirty days, these data must be submitted to the department as soon as they become available;

(D) Proximity to downgradient drinking water, surface water, and populated areas; and

(E) Description of response actions taken or planned.

(F) In the event of an emergency, additional information as required by WAC 173-303-360.

(e) Provision of secondary containment, repair, or closure.

(i) Unless the owner/operator satisfies the requirements of (e)(ii) through (iv) of this subsection, the tank system must be closed in accordance with subsection (8) of this section.

(ii) If the cause of the release was a spill that has not damaged the integrity of the system, the owner/operator may return the system to service as soon as the released waste is removed and repairs, if necessary, are made.

(iii) If the cause of the release was a leak from the primary tank system into the secondary containment system, the system must be repaired prior to returning the tank system to service.

(iv) If the source of the release was a leak to the environment from a component of a tank system without secondary containment, the owner/operator must provide the component of the system from which the leak occurred with secondary containment that satisfies the requirements of subsection (4) of this section before it can be returned to service, unless the source of the leak is an aboveground portion of a tank system that can be inspected visually. If the source is an aboveground component that can be inspected visually, the component must be repaired and may be returned to service without secondary containment as long as the requirements of (f) of this subsection are satisfied. If a component is replaced to comply with the requirements of this subitem, that component must satisfy the requirements for new tank systems or components in subsections (3) and (4) of this section. Additionally, if a leak has occurred in any portion of a tank system component that is not readily accessible for visual inspection (e.g., the bottom of an inground or onground tank), the entire component must be provided with secondary containment in accordance with subsection (4) of this section prior to being returned to use.

(f) Certification of major repairs. If the owner/operator has repaired a tank system in accordance with (e) of this subsection, and the repair has been extensive (e.g., installation of an internal liner; repair of a ruptured primary containment or secondary containment vessel), the tank system must not be returned to service unless the owner/operator has obtained a certification by an independent, qualified, registered, professional engineer in accordance with WAC 173-303-810 (13)(a) that the repaired system is capable of handling dangerous wastes without release for the intended life of the system.
This certification must be submitted to the department within seven days after returning the tank system to use.

Note: See WAC 173-303-320 for the requirements necessary to remedy a failure. Also, 40 C.F.R. Part 302 may require the owner or operator to notify the National Response Center of certain releases.

(8) Closure and post-closure care.

(a) At closure of a tank system, the owner or operator must remove or decontaminate all waste residues, contaminated containment system components (liners, etc.), contaminated soils, and structures and equipment contaminated with waste, and manage them as dangerous waste, unless WAC 173-303-070 (2)(a) applies. The closure plan, closure activities, cost estimates for closure, and financial responsibility for tank systems must meet all of the requirements specified in WAC 173-303-610 and 173-303-620.

(b) If the owner or operator demonstrates that not all contaminated soils can be practically removed or decontaminated as required in (a) of this subsection, then the owner or operator must close the tank system and perform post-closure care in accordance with the closure and post-closure care requirements that apply to landfills (see WAC 173-303-665(6)). In addition, for the purposes of closure, post-closure, and financial responsibility, such a tank system is then considered to be a landfill, and the owner or operator must meet all of the requirements for landfills specified in WAC 173-303-610 and 173-303-620.

(c) If an owner or operator has a tank system that does not have secondary containment that meets the requirements of subsection (4)(b) through (f) of this section and is not exempt from the secondary containment requirements in accordance with subsection (4)(g) of this section, then:

(i) The closure plan for the tank system must include both a plan for complying with (a) of this subsection and a contingent plan for complying with (b) of this subsection.

(ii) A contingent post-closure plan for complying with (b) of this subsection must be prepared and submitted as part of the permit application.

(iii) The cost estimates calculated for closure and post-closure care must reflect the costs of complying with the contingent closure plan and the contingent post-closure plan, if those costs are greater than the costs of complying with the closure plan prepared for the expected closure under (a) of this subsection.

(iv) Financial assurance must be based on the cost estimates in (c)(iii) of this subsection.

(v) For the purposes of the contingent closure and post-closure plans, such a tank system is considered to be a landfill, and the contingent plans must meet all of the closure, post-closure, and financial responsibility requirements for landfills under this chapter (WAC 173-303-610 and 173-303-620).

(9) Special requirements for ignitable or reactive wastes.

(a) Ignitable or reactive waste must not be placed in tank systems unless:

(i) The waste is treated, rendered, or mixed before or immediately after placement in the tank system so that the resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under WAC 173-303-090, and 173-303-395 (1)(b) is complied with; or

(ii) The waste is stored or treated in such a way that it is protected from any material or conditions which may cause the waste to ignite or react; or
(iii) The tank system is used solely for emergencies.

(b) The owner or operator of a facility which treats or stores ignitable or reactive waste in tanks must locate the tanks in a manner equivalent to the National Fire Protection Association's buffer zone requirements for tanks, contained in (the publication NFPA-30) NFPA 30 "Flammable and Combustible Liquids Code" (2012), or as required by state and local fire codes when such codes are more stringent. The owner or operator must also comply with the requirements of WAC 173-303-395 (1)(d).

(10) Special requirements for incompatible wastes.

(a) Incompatible wastes, or incompatible wastes and materials, must not be placed in the same tank system, unless WAC 173-303-395 (1)(b) is complied with.

(b) Dangerous waste must not be placed in a tank system that has not been decontaminated and that previously held an incompatible waste or material, unless WAC 173-303-395 (1)(b) is complied with.

(11) Air emission standards. The owner or operator must manage all hazardous waste placed in a tank in accordance with the applicable requirements of 40 C.F.R. Subparts AA, BB, and CC, which are incorporated by reference at WAC 173-303-690 through 173-303-692.

AMENDATORY SECTION (Amending WSR 09-14-105, filed 6/30/09, effective 7/31/09)

WAC 173-303-64610 Purpose and applicability. (1) The provisions of this section, and WAC 173-303-64620 and 173-303-64630, establish requirements for corrective action for releases of dangerous wastes and dangerous constituents including releases from solid waste management units.

(2) The provisions of this section apply to facilities seeking or required to have a permit to treat, store, recycle or dispose of dangerous waste.

(3) The provisions of this section do not apply to cleanup-only facilities.

(4) For purposes of this section, dangerous constituent means any constituent identified in WAC 173-303-9905 or Appendix "Ground-Water Monitoring List" in Chemical Testing Methods for Designating Dangerous Waste which is incorporated at WAC 173-303-110 (3)(c), any constituent that caused a waste to be listed as a dangerous waste or to exhibit a dangerous characteristic under this chapter or to meet a dangerous waste criteria under this chapter, and any constituent that is within the meaning of "hazardous substance" under RCW 70.105D.020 ((7))) (13).

AMENDATORY SECTION (Amending WSR 15-01-123, filed 12/18/14, effective 1/18/15)

WAC 173-303-64620 Requirements. (1) The owner or operator of a facility must institute corrective action as necessary to protect human health and the environment for all releases of dangerous wastes and dangerous constituents, including releases from all solid waste
management units at the facility. Corrective action is required regardless of the time at which waste was managed at the facility or placed in such units and regardless of whether such facilities or units were intended for the management of solid or dangerous waste. Assurances of financial responsibility for such corrective action must be provided.

(2) The owner/operator must implement corrective actions beyond the facility property boundary, where necessary to protect human health and the environment. Additionally, as necessary to protect human health and the environment, the department may require the owner/operator to implement on site measures to address releases which have migrated beyond the facility boundary. Assurances of financial responsibility for such corrective action must be provided.

(3) In the case of a facility seeking or required to have a permit under the provisions of chapter 173-303 WAC, corrective action must be specified in the permit. The permit will contain schedules of compliance for such corrective action (where such corrective action cannot be completed prior to issuance of the permit) and assurances of financial responsibility for completion of such corrective action.

(4) At a minimum, corrective actions must be consistent with the following requirements of chapter 173-340 WAC.

(a) As necessary to select a cleanup action consistent with WAC 173-340-360, 173-340-350, state remedial investigation and feasibility study. Information that is adequate to support selection of a cleanup action consistent with WAC 173-340-360 but was developed under a different authority (for example, as part of closure under WAC 173-303-610 or as part of a federally overseen cleanup) may be used.

(b) WAC 173-340-360, selection of cleanup actions.

(c) WAC 173-340-400, implementation of the cleanup action.

(d) WAC 173-340-410, compliance monitoring requirements.

(e) WAC 173-340-420, periodic review.

(f) WAC 173-340-440, institutional controls.

(g) WAC 173-340-700 through 173-340-760, cleanup standards.

(5) At a minimum, financial assurance for corrective actions as required in subsections (1) and (2) of this section must be consistent with the following requirements:

(a) States and the federal government are exempt from the requirements of this section.

(i) Operators of state or federally owned facilities are exempt from the requirements of this section, except (c), (f), and (g) of this subsection.

(ii) Operators of facilities ((who are under contract with, but not owned by, the state or federal government)) that are not state or federally owned must meet all of the requirements of this section, even if the facility is leased by or otherwise under contract with the state or federal government.

(b) Unless otherwise specified, the definitions and requirements for allowable financial assurance mechanisms as set forth in the current financial assurance rules covering closure and post-closure in this section and as incorporated by reference in 40 C.F.R. 264.141, 264.143, 264.145, and 264.151 will be the definitions and requirements for allowable financial assurance for corrective action purposes. The words "corrective action" are to be substituted for the words "closure," "post closure," "post-closure," or "postclosure" in the above listed regulations as needed to produce this result.

(c) Within thirty days from the effective date of a permit, agreed order or consent decree, the owner or operator shall submit to
the department for review and approval a written cost estimate to cover the activities listed in the applicable Scope of Work and Schedule document(s). If the department rejects the cost estimate as submitted, the department shall provide to the owner or operator a revised cost estimate amount that will be the approved cost estimate.

(d) Within thirty days after the department's final approval of the owner or operator's cost estimate amount or the owner or operator's receipt of the department's approved cost estimate amount, the owner or operator shall establish and maintain continuous coverage of financial assurance in the amount of the approved cost estimate and submit the applicable financial assurance documentation. If the department does not accept, reject, or revise the owner or operator's cost estimate within sixty days after submittal, the cost estimate will be deemed approved for purposes of this section.

(e) Adjustments by the department. If the department determines that the timing or content of submission of cost estimates and financial assurance documents are not consistent with the degree and duration of risk associated with the corrective action activities, the department may adjust the level of financial assurance or timing of document submission required under this section as may be necessary to protect human health and the environment. This adjusted level or timing will be based on the department's assessment of the degree and duration of risk associated with the ownership or operation of the facility or group of facilities. In addition, if the department determines that there is a significant risk to human health and the environment from nonsudden accidental occurrences resulting from corrective action activities, it may require that the owner or operator of the facility comply with this section. An owner or operator must furnish to the department within a reasonable time, any information which the department requests to determine whether cause exists for such adjustments of level or type of coverage. Any adjustments of level or type of coverage for a facility that has a permit will be treated as a permit modification under WAC 173-303-830.

(f) If during the course of the corrective action activities the owner or operator is required to submit an additional work plan(s) under the applicable permit, agreed order or consent decree, or to conduct activities related to corrective action not previously part of the original cost estimate, the process outlined in (b) of this subsection shall apply in the submission process of an additional work plan(s) and the resulting additional cost estimate(s).

(g) All cost estimates must be based on the costs to the owner or operator of hiring a third party to complete the work and shall be in accordance with the requirements of WAC 173-303-620.

(h) The owner or operator shall annually adjust all cost estimates for inflation using the procedure outlined in WAC 173-303-620 (3)(c). However, the department may also allow a reduction in the owner or operator's cost estimate for corrective action work actually performed during the previous year.

(i) Acceptable financial assurance mechanisms are trust funds, surety bonds, letters of credit, insurance, the financial test, and the corporate guarantee, consistent with WAC 173-303-620. The department may allow other financial assurance mechanisms if they are consistent with the laws of Washington and if the owner or operator demonstrates to the satisfaction of the department that those mechanisms provide adequate financial assurance.

(j) If the owner or operator is using the financial test or corporate guarantee to meet its financial assurance obligation, the annu-
al inflationary adjustment shall occur within ninety days after the close of the owner's or operator's fiscal year. If the owner or operator is using any mechanism other than the financial test or corporate guarantee, this adjustment shall occur each year within thirty days after the anniversary of the effective date of the permit, agreed order, consent decree, or alternative effective date pursuant to (d) of this subsection.

(k) If the owner or operator seeks to establish financial assurance by using a letter of credit or a surety bond, the owner or operator shall at the same time establish and thereafter maintain a standby trust fund acceptable to the department into which funds from the other financial assurance instrument can be deposited, if the financial assurance provider is directed to do so by the department pursuant to regulation.

(l) The owner or operator shall notify the department's site manager or project coordinator and the financial assurance officer by certified mail of the commencement of a voluntary or involuntary bankruptcy proceeding, naming the owner or operator as debtor, within ten days after commencement of the proceeding. A guarantor of a corporate guarantee must make such a notification if it is named as debtor as required under the terms of the corporate guarantee.

(m) Once the owner or operator has established financial assurance with an acceptable mechanism as described above, the facility will be deemed to be without the required financial assurance:

(i) In the event of bankruptcy of the trustee or issuing institution; or

(ii) If the authority of the trustee institution to act as trustee has been suspended or revoked; or

(iii) If the authority of the institution issuing the surety bond, letter of credit, or insurance policy has been suspended or revoked.

In the event of bankruptcy of the trustee or a suspension or revocation of the authority of the trustee institution to act as a trustee, the owner or operator must establish a replacement financial assurance mechanism by any means specified in WAC 173-303-620 or other financial instrument as approved by the department within sixty days after such an event.

AMENDATORY SECTION (Amending WSR 09-14-105, filed 6/30/09, effective 7/31/09)

WAC 173-303-690 Air emission standards for process vents. (1) Applicability.

(a) The regulations in this section apply to owners and operators of facilities that treat, store, or dispose of hazardous wastes.

(b) Except for 40 C.F.R. 264.1034 (d) and (e), this section applies to process vents associated with distillation, fractionation, thin-film evaporation, solvent extraction, or air or steam stripping operations that manage hazardous wastes with organic concentrations of at least 10 ppmw, if these operations are conducted in one of the following:

(i) A unit that is subject to the permitting requirements of WAC 173-303-800 through 173-303-840; or
(ii) A unit (including a hazardous waste recycling unit) that is not exempt from permitting under the provisions of WAC 173-303-200((1)(i)) (i.e., a hazardous waste recycling unit that is not a ninety-day tank or container) and that is located at a hazardous waste management facility otherwise subject to the permitting requirements of WAC 173-303-800 through 173-303-840; or

(iii) A unit that is exempt from permitting under the provisions of WAC 173-303-200((1)(i)) (that is, a "ninety-day" tank or container) and is not a recycling unit under the provisions of WAC 173-303-120.

(c) For the owner and operator of a facility subject to this section and who received a final hazardous waste permit prior to December 6, 1996, the requirements of this section must be incorporated into the permit when the permit is reissued in accordance with the requirements of WAC 173-303-840(8) or reviewed in accordance with the requirements of WAC 173-303-806(11). Until such date when the owner and operator receive a final permit incorporating the requirements of this section, the owner and operator are subject to the requirements of 40 C.F.R. 265 Subpart AA.

Note: The requirements of 40 C.F.R. Parts 264.1032 through 264.1036 apply to process vents on hazardous waste recycling units previously exempt under WAC 173-303-120(4)(d). Other exemptions under WAC 173-303-071 and 173-303-600(2) are not affected by these requirements.

(d) The requirements of this section do not apply to the process vents at a facility where the facility owner or operator certifies that all of the process vents that would otherwise be subject to this section are equipped with and operating air emission controls in accordance with the process vent requirements of an applicable Clean Air Act regulation codified under 40 C.F.R. Part 60, Part 61, or Part 63. The documentation of compliance under regulations at 40 C.F.R. Part 60, Part 61, or Part 63 must be kept with, or made readily available with, the facility operating record.

(2) 40 C.F.R. 264.1031 through 1036 (Subpart AA) is incorporated by reference.

Note: Where the incorporated language refers to 264.1030, refer to subsection (1) of this section. Where the incorporated language refers to Part 270, refer to WAC 173-303-800 through 173-303-840.

AMENDATORY SECTION (Amending WSR 09-14-105, filed 6/30/09, effective 7/31/09)


(a) The regulations in this section apply to owners and operators of facilities that treat, store, or dispose of hazardous wastes.

(b) Except as provided in 40 C.F.R. 264.1064(k), this section applies to equipment that contains or contacts hazardous wastes with organic concentrations of at least 10 percent by weight that are managed in one of the following:

(i) A unit that is subject to the permitting requirements of WAC 173-303-800 through 173-303-840; or

(ii) A unit (including a hazardous waste recycling unit) that is not exempt from permitting under the provisions of WAC 173-303-200((1)(i)) (i.e., a hazardous waste recycling unit that is not a "ninety-day" tank or container) and that is located at a hazardous waste management facility otherwise subject to the permitting requirements of WAC 173-303-800 through 173-303-840; or
(iii) A unit that is exempt from permitting under the provisions of WAC 173-303-200 ((1(i)) (i.e., a "ninety-day" tank or container) and is not a recycling unit under the provisions of WAC 173-303-120.

(c) For the owner or operator of a facility subject to the requirements of 40 C.F.R. 264.1052 through 264.1065 who received a final permit under section 3005 of RCRA prior to December 6, 1996, the requirements of 40 C.F.R. 264.1052 through 264.1065 must be incorporated into the permit when the permit is reissued under WAC 173-303-840(8) or reviewed under WAC 173-303-806(11). Until such date when the owner or operator receives a final permit incorporating the requirements of 40 C.F.R. 264.1052 through 264.1065, the owner or operator is subject to the requirements of 40 C.F.R. 265, Subpart BB, which is incorporated by reference at WAC 173-303-400 (3)(a).

(d) Each piece of equipment to which this section applies must be marked in such a manner that it can be distinguished readily from other pieces of equipment.

(e) Equipment that is in vacuum service is excluded from the requirements of 40 C.F.R. 264.1052 to 264.1060 if it is identified as required in 40 C.F.R. 264.1064 (g)(5).

(f) Equipment that contains or contacts hazardous waste with an organic concentration of at least ten percent by weight for less than three hundred hours per calendar year is excluded from the requirements of 40 C.F.R. Parts 264.1052 through 264.1060 if it is identified, as required in 40 C.F.R. Part 264.1064 (g)(6).

(g) Purged coatings and solvents from surface coating operations subject to the National Emission Standards for Hazardous Air Pollutants (NESHAP) for the surface coating of automobiles and light-duty trucks at 40 C.F.R. Part 63, Subpart III, are not subject to the requirements of this section.

Note: Where the incorporated language refers to 264.1050, refer to WAC 173-303-691. Where the incorporated language refers to Part 270, refer to WAC 173-303-800 through 173-303-840.

AMENDATORY SECTION (Amending WSR 15-01-123, filed 12/18/14, effective 1/18/15)

WAC 173-303-9903 Discarded chemical products list.

Discarded Chemical Products List

"P" Chemical Products

Comment: For the convenience of the regulated community, the primary hazardous properties of these materials have been indicated by the letters T (Toxicity), and R (Reactivity). Absence of a letter indicates that the compound is only listed for acute toxicity. Wastes are first listed in alphabetical order by substance and then listed again in numerical order by Dangerous Waste Number.
The "P" wastes and their corresponding Dangerous Waste Numbers are:

<table>
<thead>
<tr>
<th>Dangerous Waste No.</th>
<th>Chemical Abstracts No.</th>
<th>Substance</th>
</tr>
</thead>
<tbody>
<tr>
<td>P023</td>
<td>107-20-0</td>
<td>Acetaldehyde, chloro-</td>
</tr>
<tr>
<td>P002</td>
<td>591-08-2</td>
<td>Acetamide, N-(aminooxoxomethyl)-</td>
</tr>
<tr>
<td>P057</td>
<td>640-19-7</td>
<td>Acetamide, 2-fluoro-</td>
</tr>
<tr>
<td>P058</td>
<td>62-74-8</td>
<td>Acetic acid, fluoro-, sodium salt</td>
</tr>
<tr>
<td>P002</td>
<td>591-08-2</td>
<td>1-Acetyl-2-thiourea</td>
</tr>
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<td>P003</td>
<td>107-02-8</td>
<td>Acrolein</td>
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<tr>
<td>P070</td>
<td>116-06-3</td>
<td>Aldicarb</td>
</tr>
<tr>
<td>P203</td>
<td>1646-88-4</td>
<td>Aldicarb sulfone</td>
</tr>
<tr>
<td>P004</td>
<td>309-00-2</td>
<td>Aldrin</td>
</tr>
<tr>
<td>P005</td>
<td>107-18-6</td>
<td>Allyl alcohol</td>
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<tr>
<td>P006</td>
<td>20859-73-8</td>
<td>Aluminum phosphate (R,T)</td>
</tr>
<tr>
<td>P007</td>
<td>2763-96-4</td>
<td>5-(Aminomethyl)-3-isoxazolol</td>
</tr>
<tr>
<td>P008</td>
<td>504-24-5</td>
<td>4-Aminopyridine</td>
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<tr>
<td>P009</td>
<td>131-74-8</td>
<td>Ammonium picrate (R)</td>
</tr>
<tr>
<td>P119</td>
<td>7803-55-6</td>
<td>Ammonium vanadate</td>
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<tr>
<td>P099</td>
<td>506-61-6</td>
<td>Argentate(1-), bis(cyano-C)-, potassium</td>
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<td>P010</td>
<td>7778-39-4</td>
<td>Arsenic acid H$_2$AsO$_4$</td>
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<tr>
<td>P012</td>
<td>1327-53-3</td>
<td>Arsenic oxide As$_2$O$_3$</td>
</tr>
<tr>
<td>P011</td>
<td>1303-28-2</td>
<td>Arsenic oxide As$_2$O$_5$</td>
</tr>
<tr>
<td>P011</td>
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<td>Arsenic pentoxide</td>
</tr>
<tr>
<td>P012</td>
<td>1327-53-3</td>
<td>Arsenic trioxide</td>
</tr>
<tr>
<td>P038</td>
<td>692-42-2</td>
<td>Arsine, diethyl-</td>
</tr>
<tr>
<td>P036</td>
<td>696-28-6</td>
<td>Arsonous dichloride, phenyl-</td>
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<tr>
<td>P054</td>
<td>151-56-4</td>
<td>Aziridine</td>
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<tr>
<td>P067</td>
<td>75-55-8</td>
<td>Aziridin, 2-methyl-</td>
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<tr>
<td>P013</td>
<td>542-62-1</td>
<td>Barium cyanide</td>
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<tr>
<td>P024</td>
<td>106-47-8</td>
<td>Benzenamine, 4-chloro-</td>
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<tr>
<td>P077</td>
<td>100-01-6</td>
<td>Benzenamine, 4-nitro-</td>
</tr>
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<td>P028</td>
<td>100-44-7</td>
<td>Benzene, (chloromethyl)-</td>
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<td>P042</td>
<td>51-43-4</td>
<td>1,2-Benzenediol, 4-[1-hydroxy-2-(methylamino)ethyl]-, (R)-</td>
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<td>P046</td>
<td>122-09-8</td>
<td>Benzenethanamine, alpha, alpha-dimethyl-</td>
</tr>
<tr>
<td>P014</td>
<td>108-98-5</td>
<td>Benzenethiol</td>
</tr>
<tr>
<td>P127</td>
<td>1563-66-2</td>
<td>7-Benzofuranol, 2,3-dihydro-2,2-dimethyl-, methylcarbamate</td>
</tr>
<tr>
<td>P188</td>
<td>57-64-7</td>
<td>Benzoic acid, 2-hydroxy-, compd. with (3aS-cis)-1,2,3,3a,8,8a-hexahydro-1,3a,8-trimethylpyrrolo[2,3-b]indol-5-yl methylcarbamate ester (1:1)</td>
</tr>
<tr>
<td>P001</td>
<td>181-81-2</td>
<td>2H-1-Benzopyran-2-one, 4-hydroxy-3-(3-oxo-1-phenylbutyl)-, &amp; salts, when present at concentrations greater than 0.3%</td>
</tr>
<tr>
<td>P028</td>
<td>100-44-7</td>
<td>Benzyl chloride</td>
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<td>P015</td>
<td>7440-41-7</td>
<td>Beryllium powder</td>
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<td>P017</td>
<td>598-31-2</td>
<td>Bromoacetone</td>
</tr>
<tr>
<td>P018</td>
<td>357-57-3</td>
<td>Brucine</td>
</tr>
<tr>
<td>P045</td>
<td>39196-18-4</td>
<td>2-Butanone, 3,3-dimethyl-1-(methythio)-, O-[(methylamino)carbonyl] oxime</td>
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<tr>
<td>P021</td>
<td>592-01-8</td>
<td>Calcium cyanide</td>
</tr>
<tr>
<td>P189</td>
<td>55285-14-8</td>
<td>Carbamic acid, [(dibutylamino)thio]methyl-, 2,3-dihydro-2,2-dimethyl-7-benzofuranyl ester</td>
</tr>
<tr>
<td>P191</td>
<td>644-64-4</td>
<td>Carbamic acid, dimethyl-, 1-[(dimethyl-amino)carbonyl]-5-methyl-1H-pyrazol-3-yl ester</td>
</tr>
</tbody>
</table>
The "P" wastes and their corresponding Dangerous Waste Numbers are:

### Alphabetic List

<table>
<thead>
<tr>
<th>Dangerous Waste No.</th>
<th>Chemical Abstracts No.</th>
<th>Substance</th>
</tr>
</thead>
<tbody>
<tr>
<td>P192</td>
<td>119-38-0</td>
<td>Carbamic acid, dimethyl-, 3-methyl-1-(1-methyl-1H-pyrazol-5-yl) ester</td>
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<tr>
<td>P190</td>
<td>1129-41-5</td>
<td>Carbamic acid, methyl-, 3-methylphenyl ester</td>
</tr>
<tr>
<td>P127</td>
<td>1563-66-2</td>
<td>Carbofuran</td>
</tr>
<tr>
<td>P021</td>
<td>592-01-8</td>
<td>Calcium cyanide Ca(CN)₂</td>
</tr>
<tr>
<td>P022</td>
<td>75-15-0</td>
<td>Carbon disulfide</td>
</tr>
<tr>
<td>P189</td>
<td>55285-14-8</td>
<td>Carbosulfan</td>
</tr>
<tr>
<td>P095</td>
<td>75-44-5</td>
<td>Carbonic dichloride</td>
</tr>
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<td>P023</td>
<td>107-20-0</td>
<td>Chloroacetalddehyde</td>
</tr>
<tr>
<td>P024</td>
<td>106-47-8</td>
<td>1-Chloro-3-fluoropropane (p-Chloroaniline)</td>
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<td>P026</td>
<td>534-82-1</td>
<td>1-(α-Chlorophenyl)thiourea</td>
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<tr>
<td>P027</td>
<td>542-76-7</td>
<td>3-Chloropropionitrile</td>
</tr>
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<td>P029</td>
<td>544-92-3</td>
<td>Copper cyanide</td>
</tr>
<tr>
<td>P029</td>
<td>544-92-3</td>
<td>Copper cyanide Cu(CN)₂</td>
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<tr>
<td>P202</td>
<td>64-00-6</td>
<td>m-Cumene methylcarbamate</td>
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<tr>
<td>P030</td>
<td></td>
<td>Cyanides (soluble cyanide salts), not otherwise specified</td>
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<td>P031</td>
<td>460-19-5</td>
<td>Cyanogen</td>
</tr>
<tr>
<td>P033</td>
<td>506-77-4</td>
<td>Cyanogen chloride</td>
</tr>
<tr>
<td>P033</td>
<td>506-77-4</td>
<td>Cyanogen chloride (CNCl)</td>
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<td>P034</td>
<td>131-89-5</td>
<td>2-Cyclohexyl-4,6-dinitrophenol</td>
</tr>
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<td>P016</td>
<td>542-88-1</td>
<td>Dichloromethyl ether</td>
</tr>
<tr>
<td>P036</td>
<td>696-28-6</td>
<td>Dichlorophenylarsine</td>
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<tr>
<td>P037</td>
<td>60-57-1</td>
<td>Dieldrin</td>
</tr>
<tr>
<td>P038</td>
<td>692-42-2</td>
<td>Diethylarsine</td>
</tr>
<tr>
<td>P041</td>
<td>311-45-5</td>
<td>Diethyl-p-nitrophenyl phosphate</td>
</tr>
<tr>
<td>P040</td>
<td>297-97-2</td>
<td>O,O-Diethyl O-pyrazinyl phosphorothioate</td>
</tr>
<tr>
<td>P043</td>
<td>55-91-4</td>
<td>Diisopropylfluorophosphate (DFP)</td>
</tr>
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<td>P191</td>
<td>644-64-4</td>
<td>Dimetilan</td>
</tr>
<tr>
<td>P004</td>
<td>309-00-2</td>
<td>1,4,5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexa-chloro-1,4,4a,5,8,8a-hexahydro-1α,4α,4β,5α,8α,8β]-</td>
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<tr>
<td>P060</td>
<td>465-73-6</td>
<td>1,4,5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexa-chloro-1,4,4a,5,8,8a-hexahydro-1α,4α,4β,5β,8β,8α]-</td>
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<tr>
<td>P037</td>
<td>60-57-1</td>
<td>2,7,3,6-Dimethanonaphthalene, 1,2,3,4,10,10-hexa-chloro-1,4,4a,5,8,8a-hexahydro-1α,4α,4β,5β,8β,8α]-, &amp; metabolites</td>
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<td>P051</td>
<td>172-20-8</td>
<td>2,7,3,6-Dimethanonaphthalene, 1,2,3,4,10,10-hexa-chloro-1,4,4a,5,8,8a-hexahydro-1α,4α,4β,5β,8β,8α]-, &amp; metabolites</td>
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<td>122-09-8</td>
<td>alpha, alpha-Dimethylphenetylamine</td>
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<td>1534-52-1</td>
<td>4,6-Dinitro-o-cresol, &amp; salts</td>
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<td>P048</td>
<td>51-28-5</td>
<td>2,4-Dinitrophenol</td>
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<td>P020</td>
<td>88-85-7</td>
<td>Dinoseb</td>
</tr>
<tr>
<td>P085</td>
<td>152-16-9</td>
<td>Diphosphoramide, octamethyl-</td>
</tr>
<tr>
<td>P111</td>
<td>107-49-3</td>
<td>Diphosphoric acid, tetraethyl ester</td>
</tr>
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<td>298-04-4</td>
<td>Disulfoton</td>
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<tr>
<td>P049</td>
<td>541-53-7</td>
<td>Dithiobiuret</td>
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The "P" wastes and their corresponding Dangerous Waste Numbers are:

<table>
<thead>
<tr>
<th>Alphabetical List</th>
</tr>
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<tbody>
<tr>
<td>Dangerous Waste No.</td>
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The "P" wastes and their corresponding Dangerous Waste Numbers are:

Alphabetical List

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<tr>
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<th>Chemical Abstracts No.</th>
<th>Substance</th>
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</thead>
<tbody>
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<td>P059</td>
<td>76-44-8</td>
<td>4,7-Methano-1H-indene, 1,4,5,6,7,8,8-heptachloro-3a,4,7,7a-tetrahydro-</td>
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<td>P199</td>
<td>2032-65-7</td>
<td>Methiocarb</td>
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<td>16752-77-5</td>
<td>Methomyl</td>
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<td>P068</td>
<td>60-34-4</td>
<td>Methyl hydrazine</td>
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<td>P064</td>
<td>624-83-9</td>
<td>Methyl isocyanate</td>
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<td>P069</td>
<td>75-86-5</td>
<td>2-Methylpropanitrile</td>
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<td>298-00-0</td>
<td>Methyl parathion</td>
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<td>1129-41-5</td>
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<td>N,N-Diethylthiourea</td>
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<td>N-Trimethylthiourea</td>
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<td>Octamethylpyrophosphoramide</td>
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<td>20816-12-0</td>
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<td>Osmium tetroxide</td>
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<td>7-Oxapentacyclo[2.2.1]heptane-2,3-dicarboxylic acid</td>
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<td>P194</td>
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<td>Phenol, 3,5-dimethyl-4-(methylthio)-, methylcarbamate</td>
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<td>Phenylmercury acetate</td>
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<td>Phosphine</td>
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<td>P210</td>
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<td>Phosphoric acid, diethyl 4-nitrophenyl ester</td>
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The "P" wastes and their corresponding Dangerous Waste Numbers are:

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<td>Phosphorothioic acid, O-[4-[(dimethylamino)sulfonil]phenyl] O,O-dimethyl ester</td>
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<td>Propanenitrile, 2-hydroxy-2-methyl-</td>
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<td>2-Propen-1-ol</td>
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<td>2-Propyn-1-ol</td>
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<td>154-11-5</td>
<td>Pyridine, 3-(1-methyl-2-pyrroldiny1)-, (S)-, &amp; salts</td>
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<td>Pyrrolo[2,3-b]indol-5-ol, 1,2,3,3a,8a-hexahydro-1,3a,8-trimethyl-, methylcarbamate (ester), [3aS-cis]-</td>
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<td>P114</td>
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<td>Selenious acid, dithallium(1+) salt</td>
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<td>Strychnidin-10-one, 2,3-dimethoxy-</td>
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<td>Strychnine, &amp; salts</td>
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<td>Sulfuric acid, dithallium(1+) salt</td>
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<td>Tetraethyl pyrophosphate</td>
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<td>Tetranitromethane (R)</td>
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<td>P062</td>
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<td>Tetraphosphoric acid, hexaethyl ester</td>
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The "P" wastes and their corresponding Dangerous Waste Numbers are:

### Alphabetical List

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<tr>
<th>Dangerous Waste No.</th>
<th>Chemical Abstracts No.</th>
<th>Substance</th>
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<tbody>
<tr>
<td>P113</td>
<td>1314-32-5</td>
<td>Thallic oxide</td>
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<tr>
<td>P113</td>
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<td>Thallium oxide Tl$_2$O$_3$</td>
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<td>Thallium(I) selenite</td>
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<td>7446-18-6</td>
<td>Thallium(I) sulfate</td>
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<td>3689-24-5</td>
<td>Thiodiphosphoric acid, tetraethyl ester</td>
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<td>P045</td>
<td>39196-18-4</td>
<td>Thiofanox</td>
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<td>P049</td>
<td>541-53-7</td>
<td>Thiomimidodicarbonic diamide $[(\text{H}_2\text{N})(\text{S})\text{C}]_2\text{NH}$</td>
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<td>P014</td>
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<td>Thiosemicarbazide</td>
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<td>Thiourea, 1-naphthalenyl-</td>
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<td>$^1$81-81-2</td>
<td>Warfarin, &amp; salts, when present at concentrations greater than 0.3%</td>
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<td>P121</td>
<td>557-21-1</td>
<td>Zinc cyanide Zn(CN)$_2$</td>
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<td>P121</td>
<td>557-21-1</td>
<td>Zinc cyanide Zn$_2$(CN)$_2$</td>
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<td>P122</td>
<td>1314-84-7</td>
<td>Zinc phosphate Zn$_3$P$_2$, when present at concentrations greater than 10% (R,T)</td>
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<td>P205</td>
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<td>Ziram</td>
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### Numerical List

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<th>Dangerous Waste No.</th>
<th>Chemical Abstracts No.</th>
<th>Substance</th>
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<tbody>
<tr>
<td>P001</td>
<td>$^1$81-81-2</td>
<td>2H-1-Benzopyran-2-one, 4-hydroxy-3-((3-oxo-1-phenylbutyl)-, &amp; salts, when present at concentrations greater than 0.3%</td>
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<td>P001</td>
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<td>Warfarin, &amp; salts, when present at concentrations greater than 0.3%</td>
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[264] OTS-9660.3
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<td>P041</td>
<td>311-45-5</td>
<td>Diethyl-p-nitrophenyl phosphate</td>
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<td>26419-73-8</td>
<td>Tirpate</td>
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<td>57-64-7</td>
<td>Benzoic acid, 2-hydroxy-compd. with (3aS-cis)-1,2,3,3a,8,8a-hexahydro-1,3a,8-trimethylpyrrolo[2,3-b]indol-5-yl methylcarbamate ester (1:1)</td>
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<td>P188</td>
<td>57-64-7</td>
<td>Physostigmine salicylate</td>
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<td>55285-14-8</td>
<td>Carboxic acid, [dibutylamino]-thio[methyl-, 2,3-dihydro-2,2-dimethyl-7-benzofurany] ester</td>
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<td>Carbadic acid, methyl-, 3-methylphenyl ester</td>
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<td>Metolcarb</td>
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<td>P191</td>
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<td>Carbadic acid, dimethyl-, 1-[(dimethylamino)carbonyl]-5-methyl-1H-pyrazol-3-yl ester</td>
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<td>P191</td>
<td>644-64-4</td>
<td>Dimeflutan</td>
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<td>Carbadic acid, dimethyl-, 3-methyl-1-(1-methylthio)-1H-pyrazol-5-yl ester</td>
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<td>Isonan</td>
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<td>Ethanimidthioic acid, 2-[(dimethylamino)-N-[(methylamino)carbonyl]oxy]-2-oxo, methyl ester</td>
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<td>P194</td>
<td>23135-22-0</td>
<td>Oxamyl</td>
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<td>15339-36-3</td>
<td>Manganese, bis(dimethylcarbamodithioato-S,S)</td>
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<td>P196</td>
<td>15339-36-3</td>
<td>Manganese(dimethylthiocarbamate)</td>
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<td>17702-57-7</td>
<td>Formparanate</td>
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<td>17702-57-7</td>
<td>Methanimidamide, N,N-dimethyl-N'[(2-methyl-4-[[methylamino]carbonyl]oxy]phenyl]-</td>
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<td>P198</td>
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<td>Formetanate hydrochloride</td>
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<td>Methanimidamide, N,N-dimethyl-N'[(3-[[methylamino]-carbonyl]oxy]phenyl]-monohydrochloride</td>
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<td>Methiocarb</td>
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<td>2032-65-7</td>
<td>Phentol, (3,5-dimethyl-4-(methylthio)-methylcarbamate</td>
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<td>2631-37-0</td>
<td>Phentol, 3-methyl-5-[(1-methylthio)-methylcarbamate</td>
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<td>Promeccar</td>
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<td>m-Cumeyl methylcarbamate</td>
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<td>3-Isopropylphenyl N-methylcarbamate</td>
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<td>64-00-6</td>
<td>Phenol, 3-(1-methylthio)-methylcarbamate</td>
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<td>1646-88-4</td>
<td>Aldicarb sulfone</td>
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<td>1646-88-4</td>
<td>Propanal, 2-methyl-2-(methyl-sulfonyl)-O-[(methylamino)carbonyl]oxime</td>
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<td>P204</td>
<td>57-47-6</td>
<td>Phystostigmine</td>
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<td>P204</td>
<td>57-47-6</td>
<td>Pyrrolo[2,3-b]indol-5-ol,1,2,3,3a,8,8a-hexahydro-1,3a,8-trimethyl-methylcarbamate (ester),(3aS-cis)-</td>
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<td>P205</td>
<td>137-30-4</td>
<td>Zinc, bis(dimethylcarbamodithioato-S,S)</td>
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<td>P205</td>
<td>137-30-4</td>
<td>Ziram</td>
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**FOOTNOTE:** 1 CAS Number given for parent compound only.
Comment: For the convenience of the regulated community, the primary hazardous properties of these materials have been indicated by the letters T (Toxicity), R (Reactivity), I (Ignitability) and C (Corrosivity). Absence of a letter indicates that the compound is only listed for toxicity. Wastes are first listed in alphabetical order by substance and then listed again in numerical order by Dangerous Waste Number.

The "U" wastes and their corresponding Dangerous Waste Numbers are:

### Alphabetical List

<table>
<thead>
<tr>
<th>Dangerous Waste No.</th>
<th>Chemical Abstracts No.</th>
<th>Substance</th>
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<td>U394</td>
<td>30558-43-1</td>
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<td>U001</td>
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<td>Acetaldehyde (I)</td>
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<td>Acetaldehyde, trichloro-</td>
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<td>U187</td>
<td>62-44-2</td>
<td>Acetamide, N-(4-ethoxyphenyl)-</td>
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<td>U005</td>
<td>53-96-3</td>
<td>Acetamide, N-9H-fluoren-2-yl-</td>
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<td>U240</td>
<td>194-75-7</td>
<td>Acetic acid, (2,4-dichlorophenoxy)-, salts &amp; esters</td>
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<td>U112</td>
<td>141-78-6</td>
<td>Acetic acid ethyl ester (I)</td>
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<td>U144</td>
<td>301-04-2</td>
<td>Acetic acid, lead(2+) salt</td>
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<td>U214</td>
<td>563-68-8</td>
<td>Acetic acid, thallium(1+) salt</td>
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<td>See F027</td>
<td>93-76-5</td>
<td>Acetic acid, (2,4,5-trichlorophenoxy)-</td>
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<td>Acetonitrile (I,T)</td>
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<td>Azirino[2',3':3,4']pyrrolo[1,2-a]indole-4,7-dione, 6-amino-8-[[aminocarbonyl]oxy]methyl]-1,1a,2,8,8a,8b-hexahydro-8a-methoxy-5-methyl-,[1aS-(1alpha, 8beta,8aalpha,8balpha)]-</td>
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<td>U280</td>
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<td>Barban</td>
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<td>Benz[j]aceanthyline, 1,2-dihydro-3-methyl-</td>
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<td>Benzamide, 3,5-dichloro-N-(1,1-dimethyl-2-propynyl)-</td>
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<td>Benzenamine (I,T)</td>
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<td>Benzenamine, 4,4'-carbonimidoylbis[N,N-dimethyl-</td>
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<td>Benzenamine, 4-chloro-2-methyl-, hydrochloride</td>
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<td>Benzenamine, N,N-dimethyl-4-(phenylazo)-</td>
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<td>Benzenamine, 2-methyl-</td>
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<td>Benzenamine, 4-methyl-</td>
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The "U" wastes and their corresponding Dangerous Waste Numbers are:

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<th>Alphabetical List</th>
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The "U" wastes and their corresponding Dangerous Waste Numbers are:

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<th>Dangerous Waste No.</th>
<th>Chemical Abstracts No.</th>
<th>Substance</th>
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<td>U064</td>
<td>189-55-9</td>
<td>Benzo[rr]pentaphene</td>
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<td>U248</td>
<td>181-81-2</td>
<td>2H-1-Benzopyran-2-one, 4-hydroxy-3-(3-oxo-1-phenyl-butyl)-, &amp; salts, when present at concentrations of 0.3% or less</td>
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<td>Benzo[a]pyrene</td>
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<td>p-Benzooquinone</td>
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<td>98-07-7</td>
<td>Benzotrichloride (C,R,T)</td>
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<td>1464-53-5</td>
<td>2,2'-Bioxirane</td>
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<td>92-87-5</td>
<td>[1,1'-Biphenyl]-4,4'-diamine</td>
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<td>[1,1'-Biphenyl]-4,4'-diamine,3,3'-dichloro-</td>
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<td>[1,1'-Biphenyl]-4,4'-diamine, 3,3'-dimethoxy-</td>
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<td>4-Bromophenyl phenyl ether</td>
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<td>1,3-Butadiene, 1,1,2,3,4,4-hexachloro-</td>
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<td>1-Butanamine, N-butyl-N-nitroso-</td>
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<td>1-Butanol (I)</td>
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<td>2-Butanone, peroxide (R,T)</td>
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<td>2-Butenal</td>
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<td>764-41-0</td>
<td>2-Butene, 1,4-dichloro- (LT)</td>
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<td>U143</td>
<td>303-34-4</td>
<td>2-Butenoic acid, 2-methyl-, 7-[(2,3-dihydroxy-2-(1-methoxyethyl)-3-methyl-1-oxobutoxy)methyl]-2,3,5,7a-tetrahydro-1H-pyrrolizin-1-ylester, [1S-[1alpha(Z),7alpha(Z)],7(2S*,3R*), 7alpha]-</td>
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<td>71-36-3</td>
<td>n-Butyl alcohol (I)</td>
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<td>Calcium chromate</td>
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<td>51-79-6</td>
<td>Carbamic acid, ethyl ester</td>
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<td>Carbamic acid, 1H-benzimidazol-2-yl, methyl ester</td>
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<td>17804-35-2</td>
<td>Carbamic acid, [1-[(butylamino)carbonyl]-1H-benzimidazol-2-yl]-, methyl ester</td>
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<td>Carbendazim</td>
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<td>Carbonic acid, dithallium(1+) salt</td>
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<td>U156</td>
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<td>Carbonochloridic acid, methyl ester (LT)</td>
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The "U" wastes and their corresponding Dangerous Waste Numbers are:

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<th>Dangerous Waste No.</th>
<th>Chemical Abstracts No.</th>
<th>Substance</th>
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<td>Carbon oxyfluoride (R,T)</td>
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<td>Chlorambucil</td>
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<td>57-74-9</td>
<td>Chlordane, alpha &amp; gammaisomers</td>
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The "U" wastes and their corresponding Dangerous Waste Numbers are:

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The "U" wastes and their corresponding Dangerous Waste Numbers are:

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<td>Methyl ethyl ketone (MEK) (I,T)</td>
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<td>Methyl ethyl ketene peroxyde (R,T)</td>
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The "U" wastes and their corresponding Dangerous Waste Numbers are:

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The "U" wastes and their corresponding Dangerous Waste Numbers are:

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<th>Dangerous Waste No.</th>
<th>Chemical Abstracts No.</th>
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<td>759-73-9</td>
<td>Urea, N-ethyl-N-nitroso-</td>
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<td>U177</td>
<td>684-93-5</td>
<td>Urea, N-methyl-N-nitroso-</td>
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<td>75-01-4</td>
<td>Vinyl chloride</td>
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<td>U248</td>
<td>81-81-2</td>
<td>Warfarin, &amp; salts, when present at concentrations of 0.3% or less</td>
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<tr>
<td>U239</td>
<td>1330-20-7</td>
<td>Xylene (I)</td>
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<tr>
<td>U200</td>
<td>50-55-5</td>
<td>Yohimbine-16-carboxylic acid, 11,17-dimethoxy-18-[(3,4,5-trimethoxybenzoyl)oxy]-, methyl ester, (3beta,16alpha,17alpha,18beta,20alpha)-</td>
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<tr>
<td>U249</td>
<td>1314-84-7</td>
<td>Zinc phosphide Zn3P2, when present at concentrations of 10% or less</td>
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**Numerical List**

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<th>Chemical Abstracts No.</th>
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<td>Acetaldehyde (I)</td>
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<td>U364</td>
<td>22961-82-6</td>
<td>1,3-Benzodioxol-4-ol, 2,2-dimethyl-,</td>
</tr>
<tr>
<td>U367</td>
<td>1563-38-8</td>
<td>7-Benzofuranol, 2,3-dihydro-2,2-dimethyl-</td>
</tr>
<tr>
<td>U367</td>
<td>1563-38-8</td>
<td>Carbofuran phenol</td>
</tr>
<tr>
<td>U372</td>
<td>10605-21-7</td>
<td>Carbamic acid, 1H-benzimidazol-2-yl, methylester</td>
</tr>
<tr>
<td>U372</td>
<td>10605-21-7</td>
<td>Carbendazim</td>
</tr>
<tr>
<td>U373</td>
<td>122-42-9</td>
<td>Carbamic acid, phenyl-, 1-methylethyl ester</td>
</tr>
<tr>
<td>U373</td>
<td>122-42-9</td>
<td>Propham</td>
</tr>
<tr>
<td>U387</td>
<td>52888-80-9</td>
<td>Carbamothioic acid, dipropyl-, S-(phenylmethyl) ester</td>
</tr>
<tr>
<td>U387</td>
<td>52888-80-9</td>
<td>Prosulfocarb</td>
</tr>
<tr>
<td>U389</td>
<td>2303-17-5</td>
<td>Carbamothioic acid, bis(1-methylthio)-, S-(2,3,3-trichloro-2-propenyl) ester</td>
</tr>
<tr>
<td>U389</td>
<td>2303-17-5</td>
<td>Triallate</td>
</tr>
<tr>
<td>U394</td>
<td>30558-43-1</td>
<td>A2213</td>
</tr>
<tr>
<td>U394</td>
<td>30558-43-1</td>
<td>Ethanimidothioic acid, 2-(dimethylamino)-N-hydroxy-2-oxo-, methyl ester</td>
</tr>
<tr>
<td>U395</td>
<td>5952-26-1</td>
<td>Diethylene glycol, dicarbamate</td>
</tr>
<tr>
<td>U395</td>
<td>5952-26-1</td>
<td>Ethanol, 2,2'-oxybis-, dicarbamate</td>
</tr>
</tbody>
</table>
### Numerical List

<table>
<thead>
<tr>
<th>Dangerous Waste No.</th>
<th>Chemical Abstracts No.</th>
<th>Substance Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>U404</td>
<td>121-44-8</td>
<td>Ethanimine, N,N-diethyl-</td>
</tr>
<tr>
<td>U404</td>
<td>121-44-8</td>
<td>Triethylamine</td>
</tr>
<tr>
<td>U409</td>
<td>23564-05-8</td>
<td>Carbamic acid, [1,2-phenylenebis (iminocarbonothioyl)]bis-,dimethyl ester</td>
</tr>
<tr>
<td>U409</td>
<td>23564-05-8</td>
<td>Thiophanate-methyl</td>
</tr>
<tr>
<td>U410</td>
<td>59669-26-0</td>
<td>Ethanimidothioic acid, N,N'-[thiobis[(methylimino)carbonyloxy]]bis-,dimethyl ester</td>
</tr>
<tr>
<td>U410</td>
<td>59669-26-0</td>
<td>Thiodicarb</td>
</tr>
<tr>
<td>U411</td>
<td>114-26-1</td>
<td>Phenol, 2-(1-methylethoxy)-, methylcarbamate</td>
</tr>
<tr>
<td>U411</td>
<td>114-26-1</td>
<td>Propoxur</td>
</tr>
<tr>
<td>See F027</td>
<td>93-76-5</td>
<td>Acetic acid, (2,4,5-trichlorophenoxy)-</td>
</tr>
<tr>
<td>See F027</td>
<td>87-86-5</td>
<td>Pentachlorophenol</td>
</tr>
<tr>
<td>See F027</td>
<td>87-86-5</td>
<td>Phenol, pentachloro-</td>
</tr>
<tr>
<td>See F027</td>
<td>58-90-2</td>
<td>Phenol, 2,3,4,6-tetrachloro-</td>
</tr>
<tr>
<td>See F027</td>
<td>95-95-4</td>
<td>Phenol, 2,4,5-trichloro-</td>
</tr>
<tr>
<td>See F027</td>
<td>88-06-2</td>
<td>Phenol, 2,4,6-trichloro-</td>
</tr>
<tr>
<td>See F027</td>
<td>93-72-1</td>
<td>Propanoic acid, 2-(2,4,5-trichlorophenoxy)-</td>
</tr>
<tr>
<td>See F027</td>
<td>93-72-1</td>
<td>Silvex (2,4,5-TP)</td>
</tr>
<tr>
<td>See F027</td>
<td>93-76-5</td>
<td>2,4,5-T</td>
</tr>
<tr>
<td>See F027</td>
<td>58-90-2</td>
<td>2,3,4,6-Tetrachlorophenol</td>
</tr>
<tr>
<td>See F027</td>
<td>95-95-4</td>
<td>2,4,5-Trichlorophenol</td>
</tr>
<tr>
<td>See F027</td>
<td>88-06-2</td>
<td>2,4,6-Trichlorophenol</td>
</tr>
</tbody>
</table>

FOOTNOTE: ¹CAS Number given for parent compound only.

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**AMENDATORY SECTION** (Amending WSR 15-01-123, filed 12/18/14, effective 1/18/15)

**WAC 173-303-9904 Dangerous waste sources list.** The following Hazard Codes are used to indicate the basis EPA used for listing the classes or types of wastes listed in this section:

- Ignitable Waste (I)
- Corrosive Waste (C)
- Reactive Waste (R)
- Toxicity Characteristic Waste (E)
- Acute Hazardous Waste (H)
- Toxic Waste (T)

**DANGEROUS WASTE SOURCES LIST**

<table>
<thead>
<tr>
<th>Dangerous Waste No.</th>
<th>Sources</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Nonspecific Sources</strong></td>
<td></td>
</tr>
</tbody>
</table>

**Generic:**
<table>
<thead>
<tr>
<th>Sources</th>
<th>Dangerous Waste No.</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>F001</td>
<td>The following spent halogenated solvents used in degreasing: Tetrachloroethylene, trichloroethylene, methylene chloride, 1,1,1-trichloroethane, carbon tetrachloride, and chlorinated fluorocarbons; all spent solvent mixtures/blends used in degreasing containing, before use, a total of ten percent or more (by volume) of one or more of the above halogenated solvents or those solvents listed in F002, F004, and F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures. (T)</td>
<td></td>
</tr>
<tr>
<td>F002</td>
<td>The following spent halogenated solvents: Tetrachloroethylene, methylene chloride, trichloroethylene, 1,1,1-trichloroethane, chlorobenzene, 1,1,2-trichloro-1,2,2-trifluoroethane, ortho-dichlorobenzene, trichlorofluoromethane and 1,1,2 trichloroethane; all spent solvent mixtures/blends containing, before use, a total of ten percent or more (by volume) of one or more of the above halogenated solvents or those listed in F001, F004, or F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures. (T)</td>
<td></td>
</tr>
<tr>
<td>F003</td>
<td>The following spent nonhalogenated solvents: Xylene, acetone, ethyl acetate, ethyl benzene, ethyl ether, methyl isobutyl ketone, n-butyl alcohol, cyclohexanone, and methanol; all spent solvent mixtures/blends containing, before use, only the above spent nonhalogenated solvents; and all spent solvent mixtures/blends containing, before use, one or more of the above nonhalogenated solvents, and, a total of ten percent or more (by volume) of one or more of those solvents listed in F001, F002, F004, and F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures. (I)</td>
<td></td>
</tr>
<tr>
<td>F004</td>
<td>The following spent nonhalogenated solvents: Cresols and cresylic acid, nitrobenzene; all spent solvent mixtures/blends containing, before use, a total of ten percent or more (by volume) of one or more of the above nonhalogenated solvents or those solvents listed in F001, F002, and F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures. (T)</td>
<td></td>
</tr>
<tr>
<td>Dangerous Waste No.</td>
<td>Sources</td>
<td></td>
</tr>
<tr>
<td>---------------------</td>
<td>---------</td>
<td></td>
</tr>
<tr>
<td>F005</td>
<td>The following spent nonhalogenated solvents: Toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, benzene, 2-ethoxyethanol, and 2-nitropropane; all spent solvent mixtures/blends containing, before use, a total of ten percent or more (by volume) of one or more of the above nonhalogenated solvents or those solvents listed in F001, F002, or F004; and still bottoms from the recovery of these spent solvents and spent solvent mixtures. (I,T)</td>
<td></td>
</tr>
<tr>
<td>F006</td>
<td>Wastewater treatment sludges from electroplating operations except from the following processes: (1) Sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc, and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum. (T)</td>
<td></td>
</tr>
<tr>
<td>F007</td>
<td>Spent cyanide plating bath solutions from electroplating operations. (R,T)</td>
<td></td>
</tr>
<tr>
<td>F008</td>
<td>Plating bath residues from the bottom of plating baths from electroplating operations where cyanides are used in the process. (R,T)</td>
<td></td>
</tr>
<tr>
<td>F009</td>
<td>Spent stripping and cleaning bath solutions from electroplating operations where cyanides are used in the process. (R,T)</td>
<td></td>
</tr>
<tr>
<td>F010</td>
<td>Quenching bath residues from oil baths from metal heat treating operations where cyanides are used in the process. (R,T)</td>
<td></td>
</tr>
<tr>
<td>F011</td>
<td>Spent cyanide solutions from salt bath pot cleaning from metal heat treating operations. (R,T)</td>
<td></td>
</tr>
<tr>
<td>F012</td>
<td>Quenching wastewater treatment sludges from metal heat-treating operations where cyanides are used in the process. (T)</td>
<td></td>
</tr>
<tr>
<td>F019</td>
<td>Wastewater treatment sludges from the chemical conversion coating of aluminum except from zirconium phosphating in aluminum can washing when such phosphating is an exclusive conversion coating process. (T)</td>
<td></td>
</tr>
<tr>
<td>F020</td>
<td>Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tri- or tetrachlorophenol, or of intermediates used to produce their pesticide derivatives. (This listing does not include wastes from the production of hexachlorophene from highly purified 2,4,5-trichlorophenol.) (See footnote 1, below.) (H)</td>
<td></td>
</tr>
<tr>
<td>Dangerous Waste No.</td>
<td>Sources</td>
<td></td>
</tr>
<tr>
<td>---------------------</td>
<td>---------</td>
<td></td>
</tr>
<tr>
<td>F021</td>
<td>Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of pentachlorophenol, or of intermediates used to produce its derivatives. (See footnote 1, below.) (H)</td>
<td></td>
</tr>
<tr>
<td>F022</td>
<td>Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tetra-, penta-, or hexachlorobenzenes under alkaline conditions. (See footnote 1, below.) (H)</td>
<td></td>
</tr>
<tr>
<td>F023</td>
<td>Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production of materials on equipment previously used for the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tri- and tetrachlorophenols. (See footnote 1, below.) (This listing does not include wastes from equipment used only for the production or use of hexachlorophene from highly purified 2,4,5-trichlorophenol.) (H)</td>
<td></td>
</tr>
<tr>
<td>F024</td>
<td>Process wastes, including but not limited to, distillation residues, heavy ends, tars, and reactor clean-out wastes from the production of certain chlorinated aliphatic hydrocarbons by free radical catalyzed processes. These chlorinated aliphatic hydrocarbons are those having carbon chain lengths ranging from one to and including five, with varying amounts and positions of chlorine substitution. (This listing does not include wastewaters, wastewater treatment sludges, spent catalysts, and wastes listed in this section.) (T)</td>
<td></td>
</tr>
<tr>
<td>F025</td>
<td>Condensed light ends, spent filters and filter aids, and spent desiccant wastes from the production of certain chlorinated aliphatic hydrocarbons, by free radical catalyzed processes. These chlorinated aliphatic hydrocarbons are those having carbon chain lengths ranging from one to and including five, with varying amounts and positions of chlorine substitution. (T)</td>
<td></td>
</tr>
<tr>
<td>F026</td>
<td>Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production of materials on equipment previously used for the manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tetra-, penta-, or hexachlorobenzene under alkaline conditions. (See footnote 1, below.) (H)</td>
<td></td>
</tr>
<tr>
<td>Dangerous Waste No.</td>
<td>Sources</td>
<td></td>
</tr>
<tr>
<td>---------------------</td>
<td>---------</td>
<td></td>
</tr>
<tr>
<td>F027</td>
<td>Discarded unused formulations containing tri-, tetra-, or pentachlorophenol or discarded unused formulations containing compounds derived from these chlorophenols. (See footnote 1, below.) (This listing does not include formulations containing hexachlorophene synthesized from prepurified 2,4,5-trichlorophenol as the sole component.) (H)</td>
<td></td>
</tr>
<tr>
<td>F028</td>
<td>Residues resulting from the incineration or thermal treatment of soil contaminated with nonspecific sources wastes F020, F021, F022, F023, F026 and F027. (T)</td>
<td></td>
</tr>
<tr>
<td>F032</td>
<td>Wastewaters (except those that have not come into contact with process contaminants), process residuals, preservative drippage, and spent formulations from wood preserving processes generated at plants that currently use or have previously used chlorophenolic formulations (except potentially cross-contaminated wastes that have had the F032 waste code deleted in accordance with WAC 173-303-083 or potentially cross-contaminated wastes that are otherwise currently regulated as dangerous wastes (i.e., F034 or F035), and where the generator does not resume or initiate use of chlorophenolic formulations). This listing does not include K001 bottom sediment sludge from the treatment of wastewater from wood preserving processes that use creosote and/or pentachlorophenol. (T)</td>
<td></td>
</tr>
<tr>
<td>F034</td>
<td>Wastewaters (except those that have not come into contact with process contaminants), process residuals, preservative drippage, and spent formulations from wood preserving processes generated at plants that use creosote formulations. This listing does not include K001 bottom sediment sludge from the treatment of wastewater from wood preserving processes that use creosote and/or pentachlorophenol. (T)</td>
<td></td>
</tr>
<tr>
<td>F035</td>
<td>Wastewaters (except those that have not come into contact with process contaminants), process residuals, preservative drippage, and spent formulations from wood preserving processes generated at plants that use inorganic preservatives containing arsenic or chromium. This listing does not include K001 bottom sediment sludge from the treatment of wastewater from wood preserving processes that use creosote and/or pentachlorophenol. (T)</td>
<td></td>
</tr>
<tr>
<td>Waste No.</td>
<td>Description</td>
<td></td>
</tr>
<tr>
<td>-----------</td>
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<td></td>
</tr>
<tr>
<td>F037</td>
<td>Petroleum refinery primary oil/water/solids separation sludge-Any sludge generated from the gravitational separation of oil/water/solids during the storage or treatment of process wastewaters and oily cooling wastewaters from petroleum refineries. Such sludges include, but are not limited to, those generated in: Oil/water/solids separators; tanks and impoundments; ditches and other conveyances; sumps; and stormwater units receiving dry weather flow. Sludge generated in stormwater units that do not receive dry weather flow, sludges generated from noncontact once-through cooling waters segregated for treatment from other process or oily cooling waters, sludges generated in aggressive biological treatment units as defined in footnote 2, below (including sludges generated in one or more additional units after wastewaters have been treated in aggressive biological treatment units) and K051 wastes are not included in this listing. This listing does include residuals generated from processing or recycling oil-bearing hazardous secondary materials excluded under WAC 173-303-071 (3)(cc)(i), if those residuals are to be disposed of. (See footnote 2, below.)</td>
<td></td>
</tr>
<tr>
<td>F038</td>
<td>Petroleum refinery secondary (emulsified) oil/water/solids separation sludge-Any sludge and/or float generated from the physical and/or chemical separation of oil/water/solids in process wastewaters and oily cooling wastewaters from petroleum refineries. Such wastes include, but are not limited to, all sludges and floats generated in: Induced air flotation (IAF) units, tanks and impoundments, and all sludges generated in DAF units. Sludges generated in stormwater units that do not receive dry weather flow, sludges generated from noncontact once-through cooling waters segregated for treatment from other process or oily cooling waters, sludges and floats generated in aggressive biological treatment units as defined in footnote 2, below (including sludges and floats generated in one or more additional units after wastewaters have been treated in aggressive biological treatment units) and F037, K048, and K051 wastes are not included in this listing. (See footnote 2, below.)</td>
<td></td>
</tr>
<tr>
<td>Dangerous Waste No.</td>
<td>Sources</td>
<td></td>
</tr>
<tr>
<td>---------------------</td>
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<td></td>
</tr>
<tr>
<td>F039</td>
<td>Leachate (liquids that have percolated through land disposed wastes) resulting from the disposal of more than one restricted waste classified as dangerous under WAC 173-303-9903, 173-303-9904, and 173-303-9905. (Leachate resulting from the disposal of one or more of the following dangerous wastes, and no other dangerous wastes, retains its Dangerous Waste Number(s): F020, F021, F022, F026, F027, and/or F028.) (T)</td>
<td></td>
</tr>
</tbody>
</table>

*(I,T) should be used to specify mixtures that are ignitable and contain toxic constituents.

**Specific Sources**

**Wood Preservation:**
- K001 Bottom sediment sludge from the treatment of wastewaters from wood preserving processes that use creosote and/or pentachlorophenol. (T)

**Inorganic Pigments:**
- K002 Wastewater treatment sludge from the production of chrome yellow and orange pigments. (T)
- K003 Wastewater treatment sludge from the production of molybdate orange pigments. (T)
- K004 Wastewater treatment sludge from the production of zinc yellow pigments. (T)
- K005 Wastewater treatment sludge from the production of chrome green pigments. (T)
- K006 Wastewater treatment sludge from the production of chrome oxide green pigments (anhydrous and hydrated). (T)
- K007 Wastewater treatment sludge from the production of iron blue pigments. (T)
- K008 Oven residue from the production of chrome oxide green pigments. (T)

**Organic Chemicals:**
- K009 Distillation bottoms from the production of acetaldehyde from ethylene. (T)
- K010 Distillation side cuts from the production of acetaldehyde from ethylene. (T)
- K011 Bottom stream from the wastewater stripper in the production of acrylonitrile. (R,T)
- K013 Bottom stream from the acetonitrile column in the production of acrylonitrile. (R,T)
- K014 Bottoms from the acetonitrile purification column in the production of acrylonitrile. (T)
- K015 Still bottoms from the distillation of benzyl chloride. (T)
- K016 Heavy ends or distillation residues from the production of carbon tetrachloride. (T)
<table>
<thead>
<tr>
<th>Dangerous Waste No.</th>
<th>Sources</th>
</tr>
</thead>
<tbody>
<tr>
<td>K017</td>
<td>Heavy ends (still bottoms) from the purification column in the production of epichlorohydrin. (T)</td>
</tr>
<tr>
<td>K018</td>
<td>Heavy ends from the fractionation column in ethyl chloride production. (T)</td>
</tr>
<tr>
<td>K019</td>
<td>Heavy ends from the distillation of ethylene dichloride in ethylene dichloride production. (T)</td>
</tr>
<tr>
<td>K020</td>
<td>Heavy ends from the distillation of vinyl chloride in vinyl chloride monomer production. (T)</td>
</tr>
<tr>
<td>K021</td>
<td>Aqueous spent antimony catalyst waste from fluoromethanes production. (T)</td>
</tr>
<tr>
<td>K022</td>
<td>Distillation bottom tars from the production of phenol/acetone from cumene. (T)</td>
</tr>
<tr>
<td>K023</td>
<td>Distillation light ends from the production of phthalic anhydride from naphthalene. (T)</td>
</tr>
<tr>
<td>K024</td>
<td>Distillation bottoms from the production of phthalic anhydride from naphthalene. (T)</td>
</tr>
<tr>
<td>K093</td>
<td>Distillation light ends from the production of phthalic anhydride from ortho-xylene. (T)</td>
</tr>
<tr>
<td>K094</td>
<td>Distillation bottoms from the production of phthalic anhydride from ortho-xylene. (T)</td>
</tr>
<tr>
<td>K025</td>
<td>Distillation bottoms from the production of nitrobenzene by the nitration of benzene. (T)</td>
</tr>
<tr>
<td>K026</td>
<td>Stripping still tails from the production of methyl ethyl pyridines. (T)</td>
</tr>
<tr>
<td>K027</td>
<td>Centrifuge and distillation residues from toluene disiocyanate production. (R,T)</td>
</tr>
<tr>
<td>K028</td>
<td>Spent catalyst from the hydrochlorinator reactor in the production of 1,1,1-trichloroethane. (T)</td>
</tr>
<tr>
<td>K029</td>
<td>Waste from the product steam stripper in the production of 1,1,1-trichloroethane. (T)</td>
</tr>
<tr>
<td>K095</td>
<td>Distillation bottoms from the production of 1,1,1-trichloroethane. (T)</td>
</tr>
<tr>
<td>K096</td>
<td>Heavy ends from the heavy ends column from the production of 1,1,1-trichloroethane. (T)</td>
</tr>
<tr>
<td>K030</td>
<td>Column bottoms or heavy ends from the combined production of trichloroethylene and perchloroethylene. (T)</td>
</tr>
<tr>
<td>K083</td>
<td>Distillation bottoms from aniline production. (T)</td>
</tr>
<tr>
<td>K103</td>
<td>Process residues from aniline extraction from the production of aniline. (T)</td>
</tr>
<tr>
<td>K104</td>
<td>Combined wastewater streams generated from nitrobenzene/aniline production. (T)</td>
</tr>
<tr>
<td>K085</td>
<td>Distillation of fractionation column bottoms from the production of chlorobenzenes. (T)</td>
</tr>
<tr>
<td>Waste No.</td>
<td>Sources</td>
</tr>
<tr>
<td>-----------</td>
<td>---------</td>
</tr>
<tr>
<td>K105</td>
<td>Separated aqueous stream from the reactor product washing step in the production of chlorobenzenes. (T)</td>
</tr>
<tr>
<td>K107</td>
<td>Column bottoms from product separation from the production of 1,1-dimethylhydrazine (UDMH) from carboxylic acid hydrazides. (C,T)</td>
</tr>
<tr>
<td>K108</td>
<td>Condensed column overheads from product separation and condensed reactor vent gases from the production of 1,1-dimethylhydrazine (UDMH) from the carboxylic acid hydrazides. (I,T)</td>
</tr>
<tr>
<td>K109</td>
<td>Spent filter cartridges from product purification from the production of 1,1-dimethylhydrazine (UDMH) from carboxylic acid hydrazides. (T)</td>
</tr>
<tr>
<td>K110</td>
<td>Condensed column overheads from intermediate separation from the production of 1,1-dimethylhydrazine (UDMH) from carboxylic acid hydrazides. (T)</td>
</tr>
<tr>
<td>K111</td>
<td>Product washwaters from the production of dinitrotoluene via nitration of toluene. (C,T)</td>
</tr>
<tr>
<td>K112</td>
<td>Reaction by-product water from the drying column in the production of toluenediamine via hydrogenation of dinitrotoluene. (T)</td>
</tr>
<tr>
<td>K113</td>
<td>Condensed liquid light ends from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene. (T)</td>
</tr>
<tr>
<td>K114</td>
<td>Vicinals from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene. (T)</td>
</tr>
<tr>
<td>K115</td>
<td>Heavy ends from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene. (T)</td>
</tr>
<tr>
<td>K116</td>
<td>Organic condensate from the solvent recovery column in the production of toluene disocyanate via phosgenation of toluenediamine. (T)</td>
</tr>
<tr>
<td>K117</td>
<td>Wastewater from the reactor vent gas scrubber in the production of ethylene dibromide via bromination of ethene. (T)</td>
</tr>
<tr>
<td>K118</td>
<td>Spent adsorbent solids from purification of ethylene dibromide in the production of ethylene dibromide via bromination of ethene. (T)</td>
</tr>
<tr>
<td>K136</td>
<td>Still bottoms from the purification of ethylene dibromide in the production of ethylene dibromide via bromination of ethene. (T)</td>
</tr>
<tr>
<td>Dangerous Waste No.</td>
<td>Sources</td>
</tr>
<tr>
<td>---------------------</td>
<td>---------</td>
</tr>
<tr>
<td>K149</td>
<td>Distillation bottoms from the production of alpha- (or methyl-) chlorinated toluenes, ring-chlorinated toluenes, benzoyl chlorides, and compounds with mixtures of these functional groups. (This waste does not include still bottoms from the distillation of benzyl chloride.) (T)</td>
</tr>
<tr>
<td>K150</td>
<td>Organic residuals, excluding spent carbon adsorbent, from the spent chlorine gas and hydrochloric acid recovery processes associated with the production of alpha-(or methyl-) chlorinated toluenes, ring-chlorinated toluenes, benzoyl chlorides, and compounds with mixtures of these functional groups. (T)</td>
</tr>
<tr>
<td>K151</td>
<td>Wastewater treatment sludges, excluding neutralization and biological sludges, generated during the treatment of wastewaters from the production of alpha- (or methyl-) chlorinated toluenes, ring-chlorinated toluenes, benzoyl chlorides, and compounds with mixtures of these functional groups. (T)</td>
</tr>
<tr>
<td>K156</td>
<td>Organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes. (This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate.) (T)</td>
</tr>
<tr>
<td>K157</td>
<td>Wastewaters (including scrubber waters, condenser waters, washwaters, and separation waters) from the production of carbamates and carbamoyl oximes. (This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate.) (T)</td>
</tr>
<tr>
<td>K158</td>
<td>Bag house dusts and filter/separation solids from the production of carbamates and carbamoyl oximes. (This listing does not apply to wastes generated from the manufacture of 3-iodo-2-propynyl n-butylcarbamate.) (T)</td>
</tr>
<tr>
<td>K159</td>
<td>Organics from the treatment of thiocarbamate wastes. (T)</td>
</tr>
<tr>
<td>K161</td>
<td>Purification solids (including filtration, evaporation, and centrifugation solids), bag house dust and floor sweepings from the production of dithiocarbamate acids and their salts. (R,T)</td>
</tr>
</tbody>
</table>
K174 Wastewater treatment sludges from the production of ethylene dichloride or vinyl chloride monomer (including sludges that result from commingled ethylene dichloride or vinyl chloride monomer wastewater and other wastewater), unless the sludges meet the following conditions:

(i) They are disposed of in a hazardous waste or nonhazardous landfill licensed or permitted by the state or federal government;

(ii) They are not otherwise placed on the land prior to final disposal; and

(iii) The generator maintains documentation demonstrating that the waste was either disposed of in an on-site landfill or consigned to a transporter or disposal facility that provided a written commitment to dispose of the waste in an off site landfill. Respondents in any action brought to enforce the requirements of the Hazardous Waste Management Act or dangerous waste regulations must, upon a showing by the government that the respondent managed wastewater treatment sludges from the production of vinyl chloride monomer or ethylene dichloride, demonstrate that they meet the terms of the exclusion set forth above. In doing so, they must provide appropriate documentation (e.g., contracts between the generator and the landfill owner/operator, invoices documenting delivery of waste to landfill, etc.) that the terms of the exclusion were met. (T)

K175 Wastewater treatment sludges from the production of vinyl chloride monomer using mercuric chloride catalyst in an acetylene-based process. (T)
<table>
<thead>
<tr>
<th>Dangerous Waste No.</th>
<th>Sources</th>
</tr>
</thead>
<tbody>
<tr>
<td>K181</td>
<td>Nonwastewaters from the production of dyes and/or pigments (including nonwastewaters commingled at the point of generation with nonwastewaters from other processes) that, at the point of generation, contain mass loadings of any of the constituents identified in subsection (3) of this section that are equal to or greater than the corresponding subsection (3) of this section levels, as determined on a calendar year basis. These wastes will not be hazardous if the nonwastewaters are:</td>
</tr>
<tr>
<td></td>
<td>(i) Disposed in a municipal solid waste landfill unit subject to the design criteria in 40 C.F.R. 258.40;</td>
</tr>
<tr>
<td></td>
<td>(ii) Disposed in a dangerous waste landfill unit subject to either WAC 173-303-665(2) or 40 C.F.R. 265.301 (incorporated by reference at WAC 173-303-400 (3)(a));</td>
</tr>
<tr>
<td></td>
<td>(iii) Disposed in other municipal solid waste landfill units that meet the design criteria in 40 C.F.R. 258.40, WAC 173-303-665(2) or 40 C.F.R. 265.301 (incorporated by reference at WAC 173-303-400 (3)(a)); or</td>
</tr>
<tr>
<td></td>
<td>(iv) Treated in a combustion unit that is permitted under the Hazardous Waste Management Act and the dangerous waste regulations, or an on-site combustion unit that is permitted under the Clean Air Act. For the purposes of this listing, dyes and/or pigments production is defined in subsection (2) of this section.</td>
</tr>
<tr>
<td></td>
<td>Subsection (4) of this section describes the process for demonstrating that a facility's nonwastewaters are not K181. This listing does not apply to wastes that are otherwise identified as dangerous under WAC 173-303-090 (5) through (8), 173-303-100 (5) through (6), 173-303-9903, and 173-303-9904 at the point of generation. Also, the listing does not apply to wastes generated before any annual mass loading limit is met. (T)</td>
</tr>
</tbody>
</table>

Explosives:

K044 Wastewater treatment sludges from the manufacturing and processing of explosives. (R)

K045 Spent carbon from the treatment of wastewater containing explosives. (R)

K046 Wastewater treatment sludges from the manufacturing, formulation and loading of lead-based initiating compounds. (T)

K047 Pink/red water from TNT operations. (R)

Inorganic Chemicals:

K071 Brine purification muds from the mercury cell process in chlorine production, where separately prepurified brine is not used. (T)
<table>
<thead>
<tr>
<th>Dangerous Waste No.</th>
<th>Sources</th>
</tr>
</thead>
<tbody>
<tr>
<td>K073</td>
<td>Chlorinated hydrocarbon waste from the purification step of the diaphragm cell process using graphite anodes in chlorine production. (T)</td>
</tr>
<tr>
<td>K106</td>
<td>Wastewater treatment sludge from the mercury cell process in chlorine production. (T)</td>
</tr>
<tr>
<td>K176</td>
<td>Baghouse filters from the production of antimony oxide, including filters from the production of intermediates (e.g., antimony metal or crude antimony oxide). (E)</td>
</tr>
<tr>
<td>K177</td>
<td>Slag from the production of antimony oxide that is speculatively accumulated or disposed, including slag from the production of intermediates (e.g., antimony metal or crude antimony oxide). (T)</td>
</tr>
<tr>
<td>K178</td>
<td>Residues from manufacturing and manufacturing-site storage of ferric chloride from acids formed during the production of titanium dioxide using the chloride-ilmenite process. (T)</td>
</tr>
</tbody>
</table>

**Petroleum Refining:**

| K048               | Dissolved air flotation (DAF) float from the petroleum refining industry. (T) |
| K049               | Slop oil emulsion solids from the petroleum refining industry. (T) |
| K050               | Heat exchanger bundle cleaning sludge from the petroleum refining industry. (T) |
| K051               | API separator sludge from the petroleum refining industry. (T) |
| K052               | Tank bottoms (leaded) from the petroleum refining industry. (T) |
| K169               | Crude oil storage tank sediment from petroleum refining operations. (T) |
| K170               | Clarified slurry oil tank sediment and/or in-line filter/separation solids from petroleum refining operations. (T) |
| K171               | Spent hydrotreating catalyst from petroleum refining operations, including guard beds used to desulfurize feeds to other catalytic reactors (this listing does not include inert support media). (I,T) |
| K172               | Spent hydrorefining catalyst from petroleum refining operations, including guard beds used to desulfurize feeds to other catalytic reactors (this listing does not include inert support media). (I,T) |

**Iron and Steel:**

| K061               | Emission control dust/sludge from the primary production of steel in electric furnaces. (T) |
| K062               | Spent pickle liquor generated by steel finishing operations of facilities within the iron and steel industry (NAICS codes 331111 and 332111). (C,T) |

**Pesticides:**
<table>
<thead>
<tr>
<th>Dangerous Waste No.</th>
<th>Sources</th>
</tr>
</thead>
<tbody>
<tr>
<td>K031</td>
<td>Byproduct salts generated in the production of MSMA and cacodylic acid. (T)</td>
</tr>
<tr>
<td>K032</td>
<td>Wastewater treatment sludge from the production of chlordane. (T)</td>
</tr>
<tr>
<td>K033</td>
<td>Wastewater and scrub water from the chlorination of cyclopentadiene in the production of chlordane. (T)</td>
</tr>
<tr>
<td>K034</td>
<td>Filter solids from the filtration of hexachlorocyclopentadiene in the production of chlordane. (T)</td>
</tr>
<tr>
<td>K097</td>
<td>Vacuum stripper discharge from the chlordane chlorinator in the production of chlordane. (T)</td>
</tr>
<tr>
<td>K035</td>
<td>Wastewater treatment sludges generated in the production of creosote. (T)</td>
</tr>
<tr>
<td>K036</td>
<td>Still bottoms from toluene reclamation distillation in the production of disulfoton. (T)</td>
</tr>
<tr>
<td>K037</td>
<td>Wastewater treatment sludges from the production of disulfoton. (T)</td>
</tr>
<tr>
<td>K038</td>
<td>Wastewater from the washing and stripping of phorate production. (T)</td>
</tr>
<tr>
<td>K039</td>
<td>Filter cake from the filtration of diethylphosphorodithioic acid in the production of phorate. (T)</td>
</tr>
<tr>
<td>K040</td>
<td>Wastewater treatment sludge from the production of phorate. (T)</td>
</tr>
<tr>
<td>K041</td>
<td>Wastewater treatment sludge from the production of toxaphene. (T)</td>
</tr>
<tr>
<td>K098</td>
<td>Untreated process wastewater from the production of toxaphene. (T)</td>
</tr>
<tr>
<td>K042</td>
<td>Heavy ends or distillation residues from the distillation of tetrachlorobenzene in the production of 2,4,5-T. (T)</td>
</tr>
<tr>
<td>K043</td>
<td>2,6-Dichlorophenol waste from the production of 2,4-D. (T)</td>
</tr>
<tr>
<td>K099</td>
<td>Untreated wastewater from the production of 2,4-D. (T)</td>
</tr>
<tr>
<td>K123</td>
<td>Process wastewater (including supernates, filtrates, and wastewaters) from the production of ethylenebisdithiocarbamic acid and its salts. (T)</td>
</tr>
<tr>
<td>K124</td>
<td>Reactor vent scrubber water from the production of ethylenebisdithiocarbamic acid and its salts. (C,T)</td>
</tr>
<tr>
<td>K125</td>
<td>Filtration, evaporation, and centrifugation solids from the production of ethylenebisdithiocarbamic acid and its salts. (T)</td>
</tr>
<tr>
<td>K126</td>
<td>Baghouse dust and floor sweepings in milling and packaging operations from the production or formulation of ethylenebisdithiocarbamic acid and its salts. (T)</td>
</tr>
<tr>
<td>Waste No.</td>
<td>Sources</td>
</tr>
<tr>
<td>-----------</td>
<td>---------</td>
</tr>
<tr>
<td>K131</td>
<td>Wastewater from the reactor and spent sulfuric acid from the acid dryer from the production of methyl bromide. (C,T)</td>
</tr>
<tr>
<td>K132</td>
<td>Spent absorbent and wastewater separator solids from the production of methyl bromide. (T)</td>
</tr>
<tr>
<td><strong>Primary Aluminum:</strong></td>
<td></td>
</tr>
<tr>
<td>K088</td>
<td>Spent potliners from primary aluminum reduction. (T)</td>
</tr>
<tr>
<td><strong>Secondary Lead:</strong></td>
<td></td>
</tr>
<tr>
<td>K069</td>
<td>Emission control dust/sludge from secondary lead smelting. (Note: This listing is stayed administratively for sludge generated from secondary acid scrubber systems. The stay will remain in effect until further administrative action is taken. If EPA takes further action affecting this stay, EPA will publish a notice of the action in the <em>Federal Register.</em>) (T)</td>
</tr>
<tr>
<td>K100</td>
<td>Waste leaching solution from acid leaching of emission control dust/sludge from secondary lead smelting. (T)</td>
</tr>
<tr>
<td><strong>Veterinary Pharmaceuticals:</strong></td>
<td></td>
</tr>
<tr>
<td>K084</td>
<td>Wastewater treatment sludges generated during the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds. (T)</td>
</tr>
<tr>
<td>K101</td>
<td>Distillation tar residues from the distillation of aniline-based compounds in the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds. (T)</td>
</tr>
<tr>
<td>K102</td>
<td>Residue from the use of activated carbon for decolorization in the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds. (T)</td>
</tr>
<tr>
<td><strong>Ink Formulation:</strong></td>
<td></td>
</tr>
<tr>
<td>K086</td>
<td>Solvent washes and sludges, caustic washes and sludges, or water washes and sludges from cleaning tubs and equipment used in the formulation of ink from pigments, driers, soaps, and stabilizers containing chromium and lead. (T)</td>
</tr>
<tr>
<td><strong>Coking:</strong></td>
<td></td>
</tr>
<tr>
<td>K060</td>
<td>Ammonia still-lime sludge from coking operations. (T)</td>
</tr>
<tr>
<td>K087</td>
<td>Decanter tank tar sludge from coking operations. (T)</td>
</tr>
<tr>
<td>K141</td>
<td>Process residues from the recovery of coal tar, including, but not limited to, collecting sump residues from the production of coke from coal or the recovery of coke by-products produced from coal. This listing does not include K087 (decanter tank tar sludges from coking operations).</td>
</tr>
<tr>
<td>Dangerous Waste No.</td>
<td>Sources</td>
</tr>
<tr>
<td>---------------------</td>
<td>---------</td>
</tr>
<tr>
<td>K142</td>
<td>Tar storage tank residues from the production of coke from coal or from the recovery of coke by-products produced from coal.</td>
</tr>
<tr>
<td>K143</td>
<td>Process residues from the recovery of light oil, including, but not limited to, those generated in stills, decanters, and wash oil recovery units from the recovery of coke by-products produced from coal.</td>
</tr>
<tr>
<td>K144</td>
<td>Wastewater sump residues from light oil refining, including, but not limited to, intercepting or contamination sump sludges from the recovery of coke by-products produced from coal.</td>
</tr>
<tr>
<td>K145</td>
<td>Residues from naphthalene collection and recovery operations from the recovery of coke by-products produced from coal.</td>
</tr>
<tr>
<td>K147</td>
<td>Tar storage tank residues from coal tar refining.</td>
</tr>
<tr>
<td>K148</td>
<td>Residues from coal tar distillation, including but not limited to, still bottoms.</td>
</tr>
</tbody>
</table>

**Footnotes**

1 For wastes listed with the dangerous waste numbers F020, F021, F022, F023, F026, or F027 the quantity exclusion limit is 2.2 lbs. (1 kg) per month or per batch.

2 Listing Specific Definitions:

a For the purposes of the F037 and F038 listings, oil/water/solids is defined as oil and/or water and/or solids.

b(i) For the purposes of the F037 and F038 listings, aggressive biological treatment units are defined as units which employ one of the following four treatment methods: Activated sludge; trickling filter; rotating biological contactor for the continuous accelerated biological oxidation of wastewaters; or high-rate aeration. High-rate aeration is a system of surface impoundments or tanks, in which intense mechanical aeration is used to completely mix the wastes, enhance biological activity, and (A) the units employs a minimum of 6 hp per million gallons of treatment volume; and either (B) the hydraulic retention time of the unit is no longer than 5 days; or (C) the hydraulic retention time is no longer than 30 days and the unit does not generate a sludge that is a dangerous waste by the Toxicity Characteristic.
Generators and treatment, storage and disposal facilities have the burden of proving that their sludges are exempt from listing as F037 and F038 wastes under this definition. Generators and treatment, storage and disposal facilities must maintain, in their operating or other on-site records, documents and data sufficient to prove that: (A) The unit is an aggressive biological treatment unit as defined in this subsection; and (B) the sludges sought to be exempted from the definitions of F037 and/or F038 were actually treated in the aggressive biological treatment unit.

c(i) For the purposes of the F037 listing, sludges are considered to be generated at the moment of deposition in the unit, where deposition is defined as at least a temporary cessation of lateral particle movement.

(ii) For the purposes of the F038 listing,

(A) Sludges are considered to be generated at the moment of deposition in the unit, where deposition is defined as at least a temporary cessation of lateral particle movement and

(B) Floats are considered to be generated at the moment they are formed in the top of the unit.

State Sources

WPCB

Discarded transformers, capacitors or bushings containing polychlorinated biphenyls (PCB) at concentrations of 2 parts per million or greater (except when drained of all free flowing liquid) and the following wastes generated from the salvaging, rebuilding, or discarding of transformers, capacitors or bushings containing polychlorinated biphenyls (PCB) at concentrations of 2 parts per million or greater: Cooling and insulating fluids and cores, including core papers. (Note—Certain PCB wastes are excluded from this listing under WAC 173-303-071 (3)(k). The generator should check that section to determine if their PCB waste is excluded from the requirements of chapter 173-303 WAC.)

Listing Specific Definitions: For the purposes of the K181 listing, dyes and/or pigments production is defined to include manufacture of the following product classes: Dyes, pigments, or FDA certified colors that are classified as azo, triarylmethane, perylene or anthraquinone classes. Azo products include azo, monoazo, diazo, triazo, polyazo, azoic, benzidine, and pyrazolone products.
Triarylmethane products include both triarylmethane and triphenylmethane products. Wastes that are not generated at a dyes and/or pigments manufacturing site, such as wastes from the off site use, formulation, and packaging of dyes and/or pigments, are not included in the K181 listing.

(3) **K181 Listing Levels.** Nonwastewaters containing constituents in amounts equal to or exceeding the following levels during any calendar year are subject to the K181 listing, unless the conditions in the K181 listing are met.

<table>
<thead>
<tr>
<th>Constituent</th>
<th>Chemical Abstracts No.</th>
<th>Mass Levels (kg/yr)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aniline</td>
<td>62-53-3</td>
<td>9,300</td>
</tr>
<tr>
<td>o-Anisidine</td>
<td>90-04-0</td>
<td>110</td>
</tr>
<tr>
<td>4-Chloroaniline</td>
<td>106-47-8</td>
<td>4,800</td>
</tr>
<tr>
<td>p-Cresidine</td>
<td>120-71-8</td>
<td>660</td>
</tr>
<tr>
<td>2,4-Dimethylaniline</td>
<td>95-68-1</td>
<td>100</td>
</tr>
<tr>
<td>1,2-Phenylenediamine</td>
<td>95-54-5</td>
<td>710</td>
</tr>
<tr>
<td>1,3-Phenylenediamine</td>
<td>108-45-2</td>
<td>1,200</td>
</tr>
</tbody>
</table>

(4) **Procedures for demonstrating that dyes and/or pigment nonwastewaters are not K181.** The procedures described in (a) through (c) and (e) of this subsection establish when nonwastewaters from the production of dyes/pigments would not be hazardous (these procedures apply to wastes that are not disposed in landfill units or treated in combustion units as specified in subsection (1) - the K181 listing - of this section). If the nonwastewaters are disposed in landfill units or treated in combustion units as described in subsection (1) of this section, then the nonwastewaters are not hazardous. In order to demonstrate that it is meeting the landfill disposal or combustion conditions contained in the K181 listing description, the generator must maintain documentation as described in (d) of this subsection.

(a) **Determination based on no K181 constituents.** Generators that have knowledge (for example, knowledge of constituents in wastes based on prior sampling and analysis data and/or information about raw materials used, production processes used, and reaction and degradation products formed) that their wastes contain none of the K181 constituents (see subsection (3) of this section) can use their knowledge to determine that their waste is not K181. The generator must document the basis for all such determinations on an annual basis and keep each annual documentation for three years.
(b) **Determination for generated quantities of 1,000 MT/yr or less for wastes that contain K181 constituents.** If the total annual quantity of dyes and/or pigment nonwastewaters generated is 1,000 metric tons or less, the generator can use knowledge of the wastes (for example, knowledge of constituents in wastes based on prior analytical data and/or information about raw materials used, production processes used, and reaction and degradation products formed) to conclude that annual mass loadings for the K181 constituents are below the listing levels of subsection (3) of this section. To make this determination, the generator must:

(i) Each year document the basis for determining that the annual quantity of nonwastewaters expected to be generated will be less than 1,000 metric tons.

(ii) Track the actual quantity of nonwastewaters generated from January 1 through December 31 of each year. If, at any time within the year, the actual waste quantity exceeds 1,000 metric tons, the generator must comply with the requirements of (c) of this subsection for the remainder of the year.

(iii) Keep a running total of the K181 constituent mass loadings over the course of the calendar year.

(iv) Keep the following records on-site for the three most recent calendar years in which the hazardous waste determinations are made:

(A) The quantity of dyes and/or pigment nonwastewaters generated.

(B) The relevant process information used.

(C) The calculations performed to determine annual total mass loadings for each K181 constituent in the nonwastewaters during the year.

(c) **Determination for generated quantities greater than 1,000 MT/yr for wastes that contain K181 constituents.** If the total annual quantity of dyes and/or pigment nonwastewaters generated is greater than 1,000 metric tons, the generator must perform all of the steps described in (c)(i) through (xi) of this subsection in order to make a determination that its waste is not K181.

(i) Determine which K181 constituents (see subsection (3) of this section) are reasonably expected to be present in the wastes based on knowledge of the wastes (for example, based on prior sampling and analysis data and/or information about raw materials used, production processes used, and reaction and degradation products formed).
If 1,2-phenylenediamine is present in the wastes, the generator can use either knowledge or sampling and analysis procedures to determine the level of this constituent in the wastes. For determinations based on use of knowledge, the generator must comply with the procedures for using knowledge described in (b) of this subsection and keep the records described in (b)(iv) of this subsection. For determinations based on sampling and analysis, the generator must comply with the sampling and analysis and recordkeeping requirements described below in this subsection.

Develop a waste sampling and analysis plan (or modify an existing plan) to collect and analyze representative waste samples for the K181 constituents reasonably expected to be present in the wastes. At a minimum, the plan must include:

(A) A discussion of the number of samples needed to characterize the wastes fully;
(B) The planned sample collection method to obtain representative waste samples;
(C) A discussion of how the sampling plan accounts for potential temporal and spatial variability of the wastes;
(D) A detailed description of the test methods to be used, including sample preparation, clean up (if necessary), and determinative methods.

Collect and analyze samples in accordance with the waste sampling and analysis plan.

(A) The sampling and analysis must be unbiased, precise, and representative of the wastes;
(B) The analytical measurements must be sufficiently sensitive, accurate and precise to support any claim that the constituent mass loadings are below the listing levels of subsection (3) of this section.

Record the analytical results.

Record the waste quantity represented by the sampling and analysis results.

Calculate constituent-specific mass loadings (product of concentrations and waste quantity).

Keep a running total of the K181 constituent mass loadings over the course of the calendar year.

Determine whether the mass of any of the K181 constituents listed in subsection (3) of this section generated between January 1 and December 31 of any year is below the K181 listing levels.

Keep the following records on-site for the three most recent calendar years in which the hazardous waste determinations are made:

(A) The sampling and analysis plan.
The sampling and analysis results (including QA/QC data).

The quantity of dyes and/or pigment nonwastewaters generated.

The calculations performed to determine annual mass loadings.

Nonhazardous waste determinations must be conducted annually to verify that the wastes remain nonhazardous.

The annual testing requirements are suspended after three consecutive successful annual demonstrations that the wastes are nonhazardous. The generator can then use knowledge of the wastes to support subsequent annual determinations.

The annual testing requirements are reinstated if the manufacturing or waste treatment processes generating the wastes are significantly altered, resulting in an increase of the potential for the wastes to exceed the listing levels.

If the annual testing requirements are suspended, the generator must keep records of the process knowledge information used to support a nonhazardous determination. If testing is reinstated, a description of the process change must be retained.

Recordkeeping for the landfill disposal and combustion exemptions. For the purposes of meeting the landfill disposal and combustion condition set out in the K181 listing description, the generator must maintain on-site for three years documentation demonstrating that each shipment of waste was received by a landfill unit that is subject to or meets the landfill design standards set out in the listing description, or was treated in combustion units as specified in the listing description.

Waste holding and handling. During the interim period, from the point of generation to completion of the hazardous waste determination, the generator is responsible for storing the wastes appropriately. If the wastes are determined to be hazardous and the generator has not complied with the Hazardous Waste Management Act and the dangerous waste regulation requirements during the interim period, the generator could be subject to an enforcement action for improper management.