



Summary of Draft Amendments to the Dangerous Waste Regulations Chapter 173-303 WAC

**Comments due:
December 20, 2016**

For comment submittal use the online comment form, or see the instructions on page 3.

[COMMENT FORM](#)

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Summary of Draft Amendments to the Dangerous Waste Regulations, Chapter 173-303 WAC September 2016

The *Dangerous Waste Regulations* are in the process of being updated. Pre-proposal draft rule language is available for review and comment. Ecology will consider these comments as we develop the draft amendments.

This document summarizes proposed draft changes to the *Dangerous Waste Regulations*. Amendments based on federal rules are listed in Table 1. The summary paragraph from each Federal Register Notice is followed by an explanation of how the draft state rule may differ from federal language. If no differences are listed, Ecology will adopt all changes made by the federal rule into the state rule. State-initiated changes are listed in Table 2. The citations column lists where changes were made or provisions added to the *Dangerous Waste Regulations*.

Submit comments by December 30, 2016 using these methods:

1. [Online comment form](#) (entries are viewable by everyone)
2. Hwtrulemaking@ecy.wa.gov.
3. Mail to:
Robert Rieck
Department of Ecology
Hazardous Waste and Toxics Reduction Program
PO Box 47600
Olympia WA 98504-7600
4. Fax: 360-407-6715

Table 1. Federal Rule Summaries

Comment Form

Federal Rule Title, Date, Federal Register (FR) Notice Page Number, and EPA Summary- Differences in the Draft State Rule:	State Citation(s) where the federal rule language is proposed to be incorporated into the <i>Dangerous Waste Regulations</i>
Management Standards for Hazardous Waste Pharmaceuticals; Proposed Rule September 25, 2015 – Vol. 80 FR 58014	WAC 173-303-
<p>EPA SUMMARY: Some pharmaceuticals are regulated as hazardous waste under the Resource Conservation and Recovery Act (RCRA) when discarded. Healthcare facilities that generate hazardous waste pharmaceuticals as well as associated facilities have reported difficulties complying with the Subtitle C hazardous waste regulations for a number of reasons. First, healthcare workers, whose primary focus is to provide care for patients, are not knowledgeable about the RCRA hazardous waste regulations, but are often involved in the implementation of the regulations. Second, a healthcare facility can have thousands of items in its formulary, making it difficult to ascertain which ones are hazardous wastes when disposed. Third, some active pharmaceutical ingredients are listed as acute hazardous wastes, which are regulated in small amounts. To facilitate compliance and to respond to these concerns, the U.S. Environmental Protection Agency (EPA or the Agency) is proposing to revise the regulations to improve the management and disposal of hazardous waste pharmaceuticals and tailor them to address the specific issues that hospitals, pharmacies and other healthcare-related facilities face. The revisions are also intended to clarify the regulation of the reverse distribution mechanism used by healthcare facilities for the management of unused and/or expired pharmaceuticals.</p>	<p>070(7)(c)(viii) 070(8)(e), (f), and (g) 160(5) 170(8)-(10) 555 573(39)</p> <p><i>Editor’s Note: Since EPA has not yet promulgated a final pharmaceutical rule, Washington is taking state-initiated action in starting the rule adoption process prior to EPA adopting the rule. Ecology will wait until EPA adopts the final rule before adopting the state final pharmaceutical rule.</i></p>
<p>Differences in the Draft State Rule:</p> <ul style="list-style-type: none"> • Washington state-only dangerous waste pharmaceuticals are included within the pharmaceutical regulations. • The current exclusion for state-only drugs will be deleted. The draft pharmaceutical rule provides alternative disposal of state-only pharmaceuticals to a solid waste combustor or a medical waste incinerator. • Certain parts of the rule apply to law enforcement agencies who can use exemptions for controlled substances and an alternative disposal option for state-only pharmaceutical waste. Law enforcement agencies also have the option to send state-only drugs to any incinerator meeting heat input and combustion zone temperature specifications. • The state rule provides an exemption for fully-depressed syringes, whereas EPA exempts partially-dispensed syringes. • WA changes EPA’s definition of “potentially creditable dangerous waste pharmaceuticals” by removing the term “potentially” and adding a clarifying statement “The first time no credit is given the pharmaceutical will no longer be considered a ‘creditable pharmaceutical’ unless there is documented change in credit status by the reverse distributor.” • The state definition of “pharmaceutical” does not include personal protective equipment contaminated with pharmaceutical waste. 	

<p>Revisions to the Definition of Solid Waste; Final Rule January 13, 2015 – Vol. 80 FR 1694</p>	
<p>EPA SUMMARY: The Environmental Protection Agency (EPA, or the Agency) is publishing a final rule that revises several recycling-related provisions associated with the definition of solid waste used to determine hazardous waste regulation under Subtitle C of the Resource Conservation and Recovery Act (RCRA). The purpose of these revisions is to ensure that the hazardous secondary materials recycling regulations, as implemented, encourage reclamation in a way that does not result in increased risk to human health and the environment from discarded hazardous secondary material.</p> <p>Differences in the Draft State Rule:</p> <p>At this time, Ecology does not intend to adopt recycling exemptions for:</p> <ul style="list-style-type: none"> • Solvent remanufacturing • Materials recycled under control of the generator • Materials transferred for recycling - known as the “transfer based exclusion” • Non-waste determination <p>Ecology does not intend to adopt definitions for:</p> <ul style="list-style-type: none"> • Intermediate facility • Land based units • Non-waste determination • Reclaim (EPA modified an existing definition for reclaim for purposes of the new recycling exemptions. Ecology is not adopting these changes. 	<p>016(4)(d) 016(5)(d)(ii) 016(8) 017(5)(a)(iv)-(vi) 017(5)(b)(iii) 017(7)(a) 017(7)c)-(e) 017(8) 019 040</p> <ul style="list-style-type: none"> • “Contained” • “Facility” • “Hazardous Secondary Material” • “Hazardous Secondary Material Generator” • “Transfer facility”
<p>Conditional Exclusions from Solid Waste and Hazardous Waste for Solvent Contaminated Wipes; Final Rule July 31, 2013 – Vol. 78 FR 46448</p>	
<p>EPA SUMMARY: The Environmental Protection Agency (EPA or the Agency) is publishing a final rule that modifies its hazardous waste management regulations for solvent-contaminated wipes under the Resource Conservation and Recovery Act. Specifically, this rule revises the definition of solid waste to conditionally exclude solvent-contaminated wipes that are cleaned and reused and revises the definition of hazardous waste to conditionally exclude solvent-contaminated wipes that are disposed. The purpose of this final rule is to provide a consistent regulatory framework that is appropriate to the level of risk posed by solvent-contaminated wipes in a way that maintains protection of human health and the environment, while reducing overall compliance costs for industry, many of which are small businesses.</p> <p>Differences in the Draft State Rule:</p> <p>EPA excludes solvent-contaminated wipes that are reused, and also excludes wipes that are disposed at solid waste landfills, solid waste combustors, dangerous waste landfills and dangerous waste incinerators. Ecology is not proposing to adopt the exclusion for wipes disposed to solid waste landfills and solid waste combustors, but does intend to adopt the exclusion for wipes sent to dangerous waste landfills and dangerous waste incinerators. Wipes designating for Washington state-only criteria (toxicity and persistence) also qualify for these exclusions.</p>	<p>040</p> <ul style="list-style-type: none"> • “No free liquids” • “Solvent-contaminated wipe” • “Wipe” <p>070(3)(qq) and (rr)</p>

Revisions to the Export Provisions of the Cathode Ray Tube (CTR) Rule June 26, 2014 – Vol. 79 FR 36220	040 <ul style="list-style-type: none"> • “CRT transporter” • “CRT exporter” 071(3)(nn)
EPA SUMMARY: The Environmental Protection Agency (EPA or the Agency) is revising certain export provisions of the cathode ray tube (CRT) final rule published on July 28, 2006. The revisions will allow the Agency to better track exports of CRTs for reuse and recycling in order to ensure safe management of these materials.	
Differences in the Draft State Rule: There are no differences in the state rule.	

Table 2. State-initiated Rule Amendments

Citation WAC 173-303	Suggested change	Reason for change
040 “electronic signature”	Add electronic signature definition, referencing RCW 19.034.020.	Provides a clear definition of electronic signature.
040 “enforceable document”, 610(3)(a)(ix), 610(3)(b)(ii)(D), 610(8)(b)(iv), 610(8)(d)(ii)(D), 620(1)(d)(i).	Change internal reference from 645(1)(e) to 645(1)(f).	The reference to 645(1)(e) is incorrect because the rule allowance for alternative requirements for groundwater monitoring and corrective action was moved from 645(1)(e) to 645(1)(f) during the 2014 rulemaking.
045	Revise 40 CFR incorporation date.	This date is updated each time dangerous waste rules are revised.
071(3)(k)(i)	Align our exclusion with RCRA PCB exclusion by narrowing it to only include PCB dielectric fluid and electric equipment containing such fluid, as regulated under 40 CFR part 761.	Our current exclusion excludes more materials than EPA, making the state less stringent. Existing 071(3)(k) excludes any PCB materials regulated under 40 CFR part 761.60. This means our exclusion could also exclude contaminated hydraulic equipment and several other items listed in 761.60.
071(3)(nn)	Delete state-only drug exclusion.	The new pharmaceutical waste rule eliminates the need for the state-only drug exclusion.
110(3)(a)	Revise the SW-846 reference to include Update V to the Third Edition.	EPA updated SW-846 to Update V of the Third Edition.

Citation WAC 173-303	Suggested change	Reason for change
120(5)	Revise to read (5) Used oil that is recycled and is also a dangerous waste solely because it exhibits a dangerous waste characteristic or criteria is not subject to the requirements of this chapter except for <u>applicable 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.</u>	Current wording of 120(5) is incorrect because it does not include requirements and prohibitions of 515. Adding the reference to 515 will remove the conflict between 120(5) and 515.
140(2)(a)	Revise to read: The word "EPA" (in 40 C.F.R.) means "Ecology" at 40 C.F.R. 268.44(m) <u>and at 268.45(a).</u>	268.45 is incorporated by reference at 140(2)(a), but is not currently modified in the state rules to replace "EPA" with "Ecology". This implies that Ecology does not have authority to determine if hazardous debris must be treated prior to disposal. This change gives Ecology full legal ability to make this determination.
235(1)(l)	Change internal reference WAC 173-303-201(2)(c) to WAC 173-303-201(2)(c)(iii).	The current citation refers to all MQG requirements in lieu of a contingency plan and emergency procedures. 235(l) says the MQG trained professional must be knowledgeable about normal operations and emergency procedures. This specific requirement is 201(2)(c)(iii).
235(1)(m)	Change internal reference WAC 173-303-070(2) to WAC 173-303-070.	Referring to all of section 070 more closely matches the analogous RCRA citation at 40 CFR 261.3 for determining if a solid waste is a dangerous waste.
235(12)(c)	Change internal reference WAC 173-303-200(1)(b)(i) to WAC 173-303-200(1)(b)	The current citation only refers to generator container accumulation requirements. The proposed citation includes containers, tanks, drip pads and containment buildings, which will be equivalent to RCRA.
235(15)(b)(v)	Change internal reference WAC 173-303-070(7) to WAC 173-303-070(3).	070(3) more closely matches the analogous RCRA citation at 40 CFR 262.11 for determining if a solid waste is a dangerous waste.
235(16)(b)	Change internal reference WAC 173-303-070(2) to WAC 173-303-070.	Referring to all subsections of 070 more closely matches the analogous RCRA citation at 40 CFR 261.3 for determining if a solid waste is a dangerous waste.

Citation WAC 173-303	Suggested change	Reason for change
235(17(a))	Change internal reference WAC 173-303-200(d) to WAC 173-303-200(2).	Correct typo.
320(2)(d)	Revise to read: (d) The owner or operator must keep a <u>written or electronic</u> inspection log or summary, including at least the date and time of the inspection, the printed name and the handwritten <u>or electronic</u> 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.	Many facilities already have capacity to use electronic signatures, and this change allows electronic signatures and logs for general inspections.
505(1)(b)(i)	Add "...as modified at WAC 173-303-140(2)(e)." to the end of the last sentence.	This change informs the reader that 40 CFR 268.7(b)(6) is modified by WAC 173-303-140(2)(e).
573(35)	Revise to read: "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 , <u>or</u> (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)."	The use of a colon at the end of (35)(a) is incorrect grammar and makes it unclear when (b) applies. Use of a comma and the word "or" clarifies that 120(4)(c) immediate recyclers also may qualify as universal waste destination facilities and do not have to be a permitted TSD.
610(8)(b)(iv)	Change reference from 173-303-620(8)(d) to 173-303-620(1)(d)	Internal reference correction.
630(6)	Revise to read: "The owner or operator must keep a <u>written or electronic</u> inspection log including at least the date and time of the inspection, the printed name and the handwritten <u>or electronic</u> signature of the inspector, a notation of the observations made and the date and nature of any repairs or remedial actions taken."	Many facilities already have capacity to use electronic signatures and logs. This change allows electronic signatures and logs for container area inspections.
640 (6)(b)(ii)	Revise to read: "Data gathered from monitoring any <u>and</u> 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..."	The word "any" is a typo and should be "and," which will match RCRA. This change will clarify that both monitoring equipment <i>and</i> leak detection equipment need to be inspected at least once each day.

Citation WAC 173-303	Suggested change	Reason for change
640(6)(d)	Revise to read: "...The owner or operator must keep a <u>written or electronic</u> inspection log including at least the date and time of the inspection, the printed name and the <u>handwritten or electronic</u> signature of the inspector, a notation of the observations made and the date and nature of any repairs or remedial actions taken."	Many facilities already have capacity to use electronic signatures and logs, and this change allows electronic signatures and logs for tank inspections.
64610(4)	Change internal reference from RCW 70.105D.020(7) to RCW 70.105D.020(13)	Internal reference correction.
9904 F037	Change the word "wastewater" to "waters" in the second paragraph.	Revised to match RCRA.