



RULE-MAKING ORDER PERMANENT RULE ONLY

CR-103P (December 2017) (Implements RCW 34.05.360)

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: January 28, 2019

TIME: 4:16 PM

WSR 19-04-038

Agency: Department of Ecology AO# 16-03

Effective date of rule:

Permanent Rules

- 31 days after filing.
- Other (specify) April 28, 2019 (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes No If Yes, explain:

Purpose: Ecology is amending Chapter 173-303 WAC Dangerous Waste Regulations. These regulations set standards for the safe management of dangerous wastes. Chapter 173-303 WAC implements Chapter 70.105 RCW and Subtitle C of the federal Resource Conservation and Recovery Act (RCRA). Chapter 70.105 RCW gives the Department of Ecology (Ecology) Hazardous Waste program authority to adopt regulations for dangerous waste management. Ecology plans to amend specific sections of the dangerous waste regulations to incorporate new federal hazardous waste rules, including but not limited to:

- 1) Conditional Exclusions for Solvent-Contaminated Wipes
- 2) Revisions to the Definition of Solid Waste
- 3) Revisions to the Export Provisions of the Cathode Ray Tube (CRT) Rule
- 4) Hazardous Waste Generator Improvements Rule
- 5) Hazardous Waste Export-Import Revisions
- 6) Hazardous Waste Electronic Manifest Rule

Amendments also include several state-initiated technical and editorial corrections and clarifications. Substantive changes include:

- Changes to the PCB waste exclusion to reduce duplicative regulation of state-only PCB wastes also regulated under the Toxic Substance Control Act 40 CFR Part 760.
- Above-ground signage requirements for underground dangerous waste tanks to increase safety awareness.

Citation of rules affected by this order:

New: WAC 173-303-019, 169, 171, 172, 173, 174

Repealed:

Amended: WAC 173-303-016, 017, 030, 040, 045, 060, 070, 071, 082, 110, 120, 140, 160, 170, 180, 190, 200, 201, 202, 210, 220, 230, 235, 240, 250, 270, 290, 320, 350, 360, 370, 380, 395, 400, 505, 510, 515, 520, 522, 525, 573, 578, 600, 610, 620, 630, 640, 64610, 64620, 690, 691, 9903, 9904.

Suspended:

Statutory authority for adoption: Chapter 70.105, 70.105D RCW

Other authority: Resource Conservation and Recovery Act

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 18-17-061 on August 9, 2018 (date).

Describe any changes other than editing from proposed to adopted version: Ecology made the following changes. For details on why the changes were made see the Concise Explanatory Statement:

<https://fortress.wa.gov/ecy/publications/summarypages/1904003.html>

WAC 173-303-040 "Authorized representative"

"An employee of the company of equivalent responsibility" is included in the definition as an additional example of an authorized representative. This change more closely aligns with the federal definition.

WAC 173-303-040 "Satellite accumulation area"

The phrase "ninety-day accumulation area" is changed to "central accumulation area" to align with the new definition for central accumulation area and maintain consistent definitions.

WAC 173-303-070(1)(b)

Enforcement issues noted for proposed language requiring any person discovering unknown materials to immediately begin designation. Language is revised to clearly indicate this rule applies to solid waste discovered on a generator's site or property.

WAC 173-303-070(3)(a)

Due to comments and confusion about the meaning of "immediately", the word "promptly" is used. Also removed "unknown material" for reasons discussed under WAC 173-303-070(1)(b) above.

WAC 173-303-071(3)(s)(xiii) and 173-303-395(6)

These cites address hazard labeling of containers and tanks. For consistency with RCRA hazard labeling regulations and to align with changes to other related citations in the amended state rules, the word "major" is deleted.

WAC 173-303-170(2)(b)(iv) and 173-303-170(5)(c)

Treatment by generator exception language mistakenly occurs at both 170(2)(b)(iv) and at 170(5)(c). This language belongs under paragraph (2)(b)(iv). Corrected by adding "... in accumulation tanks, containers and containment buildings..." at the end of paragraph (2)(b)(iv) and deleting 170(5)(c).

WAC 173-303-171(1)(e)(ix)(B), 173-303-172(9)(a)(ii), 173-303-173(f)(i)(B), 173-303-174(1)(f)(i), 173-303-200(7)a)(ii) and 173-303-630(3)(a)

In order to address physical problem of attaching a label to small containers where the words "hazardous waste" (or the words "Episodic Hazardous Waste") are ½ inch in size, Ecology is giving an exception to the labeling size rule for containers one gallon (or four liters) and under. We are also clarifying that the lettering size requirement only applies to the size of the letters in "hazardous waste", and not to all the wording that may be on the hazardous/dangerous waste label.

WAC 173-303-171(1)(e)(ix)(C)(II), 173-303-172(9)(a)(iii)(A), 173-303-172(9)(a)(iii)(B), 173-303-173(3)(f)(i)(C)(II), 173-303-174(1)(f)(ii)(B), 173-303-200(7)(a)(iii)(B), 173-303-630(3)(b)(ii)

In order to address physical problem of attaching a hazard label to small containers with ½ inch high hazard word (s), we are allowing containers one gallon (or four liters) and under to use labels, markings or lettering that are appropriate to the size of the container.

WAC 173-303-173(3)(d)

The proposed episodic generator rule language required SQGs to report all dangerous wastes generated during the calendar year, potentially creating a new recordkeeping requirement for SQGs. To align with the RCRA episodic generation rule and to make compliance with the state rule easier, the wording was revised to require only wastes generated during the episodic event to be annually reported.

WAC 173-303-201(7)(f)

Proposed rules did not include a federal RCRA exemption providing LQGs with 24 hour emergency response capabilities a waiver from the requirement to make arrangements with the local fire department. Ecology did include this waiver in the proposed rules for MQG emergency planning requirements, but a commenter pointed out that we mistakenly did not include it in the LQG emergency planning rules. We are adding this waiver exemption to the final rules as a new paragraph (f).

WAC 173-303-201(9)(a)

By oversight during rule drafting, language in section 350 that only applies to TSD activity was carried over to the LQG contingency plan requirements in WAC 173-303-201(9)(a). The last sentence pertaining to permit modifications is removed.

i

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: Robert Rieck

Address: Department of Ecology

Hazardous Waste and Toxics Reduction Program

PO Box 47600

Olympia, WA; 98504-47600

Phone: 360-407-6751

Fax: N/A

TTY: People with speech disability may call TTY at 877-833-6341. People with impaired hearing may call Washington Relay Service at 711

Email: Robert.rieck@ecy.wa.gov

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	<u>42</u>	Repealed	___
Recently enacted state statutes:	New	___	Amended	___	Repealed	___

The number of sections adopted at the request of a nongovernmental entity:

New	___	Amended	<u>2</u>	Repealed	___
-----	-----	---------	----------	----------	-----

The number of sections adopted on the agency's own initiative:

New	___	Amended	<u>31</u>	Repealed	___
-----	-----	---------	-----------	----------	-----

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	___	Amended	___	Repealed	___
-----	-----	---------	-----	----------	-----

The number of sections adopted using:

Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	___	Amended	___	Repealed	___

Date Adopted: 1/28/19

Name: Maia D. Bellon

Title: Director

Signature:

Maia Bellon by Abby Zehm