

**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 drips 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." Except for containers one gallon (or four liters) and under, the lettering must be 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 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; for containers one gallon (or four liters) and under the label, marking or lettering can be appropriate for the size of the container.

(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 of 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;

(ii) 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 dangerous 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.

[Statutory Authority: Chapters 70.105, 70.105D RCW and RCRA. WSR 19-04-038 (Order 16-03), § 173-303-172, filed 1/28/19, effective 4/28/19.]