

Chapter 173-307 WAC

POLLUTION PREVENTION PLANS

WAC

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|-------------|------------------------------|
| 173-307-010 | Purpose. |
| 173-307-015 | Applicability. |
| 173-307-020 | Definitions. |
| 173-307-030 | Plan requirements. |
| 173-307-040 | Executive summary. |
| 173-307-050 | Due dates. |
| 173-307-060 | Plan availability. |
| 173-307-070 | Plan amendments and updates. |
| 173-307-080 | Progress reports. |
| 173-307-090 | Review process. |
| 173-307-100 | Penalties. |
| 173-307-110 | Appeals. |
| 173-307-120 | Exemptions. |
| 173-307-130 | Public disclosure. |
| 173-307-140 | Records. |

WAC 173-307-010 Purpose. This chapter implements chapter 70.95C RCW, an act relating to hazardous waste reduction. The act encourages voluntary efforts to redesign industrial, commercial, production, and other processes to result in the reduction or elimination of hazardous waste by-products and to maximize the in-process reuse or reclamation of valuable spent material. The act establishes a legislative policy to encourage reduction in the use of hazardous substances and reduction in the generation of hazardous waste whenever economically and technically practicable. It also adopts, as a policy goal for Washington state, the reduction of hazardous waste generation through hazardous substance use reduction and waste reduction techniques by fifty percent by 1995. Some individual facilities may have the ability to reduce the use of hazardous materials and the generation of hazardous wastes by far more than fifty percent while others may not be able to reduce by as much as fifty percent. Therefore, the fifty percent reduction goal is not applied as a regulatory requirement. The plans provided for in this chapter are intended to achieve, for each facility, the greatest reduction economically and technically practicable. The intent of the department of ecology is to provide technical assistance, to the greatest extent possible, to those required to prepare facility plans. The purpose of this chapter is to establish the specific elements that must be included in the documents required of hazardous waste generators and hazardous substance users under the act. The rule also establishes completion dates and implements other requirements in the act. Copies of all rules or statutes cited in this chapter are available from Records Management, Department of Ecology, P.O. Box 47600, Olympia, Washington 98504-7600.

[Statutory Authority: Chapter 70.95C RCW. WSR 00-15-020 (Order 00-08), § 173-307-010, filed 7/11/00, effective 8/11/00; WSR 91-20-131 (Order 91-35), § 173-307-010, filed 10/1/91, effective 11/1/91; WSR 91-08-041 (Order 90-57), § 173-307-010, filed 4/1/91, effective 5/2/91.]

WAC 173-307-015 Applicability. (1) The requirements of WAC 173-307-010 through 173-307-140 apply to all hazardous substance users as defined in this chapter and to hazardous waste generators who generate more than two thousand six hundred forty pounds of hazardous waste per

(7/11/00)

year, except for those facilities that are primarily treatment, storage, and disposal facilities or recycling facilities. Used oil to be rerefined or burned for energy or heat recovery may not be used in the calculation of hazardous wastes generated for purposes of this rule, and is not required to be addressed by plans prepared under this rule. For the purposes of this section, neither hazardous waste reported on the dangerous waste annual report as having been either recycled on-site or recycled for beneficial use offsite, nor amounts of hazardous substances introduced into a process and subsequently recycled for beneficial use may be used in the calculation of hazardous waste generated. A facility may petition the director to exclude hazardous wastes recycled for beneficial use even if they were not reported as such on the dangerous waste annual report. Documentation from the hazardous waste handling facility that the hazardous waste was recycled for beneficial use must be submitted along with the petition.

(2) Except as noted in subsection (3) of this section, each hazardous substance user and hazardous waste generator identified above shall prepare one plan for each facility owned or operated.

(3) A person with multiple interrelated facilities where a significant majority of the processes are substantially similar, as defined in this chapter, may prepare a single plan covering one or more of those facilities.

(a) To obtain approval, a person desiring to submit a single plan under this provision shall submit documentation to the director that a significant majority of the processes at the facilities are substantially similar before developing a plan. This documentation must be submitted by May 1 of the year before the plan due date.

(b) If a single plan is being prepared for two or more interrelated facilities with substantially similar processes, the sum total of the hazardous waste generated and the hazardous substances used by these facilities must be considered when applying any of the thresholds and/or percentages required by this chapter.

(c) In instances where a person has interrelated facilities without substantially similar processes, a single document may be prepared, but it must contain separate detailed plans for each facility.

(4) Facilities required by this chapter to prepare plans are also required to pay a hazardous waste fee, as described in chapter 173-305 WAC. The requirements of WAC 173-305-010 through 173-305-050 and 173-305-210 through 173-305-240 specifically apply.

[Statutory Authority: Chapter 70.95C RCW. WSR 00-15-020 (Order 00-08), § 173-307-015, filed 7/11/00, effective 8/11/00; WSR 91-20-131 (Order 91-35), § 173-307-015, filed 10/1/91, effective 11/1/91; WSR 91-08-041 (Order 90-57), § 173-307-015, filed 4/1/91, effective 5/2/91.]

WAC 173-307-020 Definitions. As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

[Ch. 173-307 WAC p. 1]

(1) "Closed-loop recycling" means that the entire process through completion of any reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance. Recycled materials are returned to the original process or processes.

(2) "Dangerous waste" means any discarded, useless, unwanted, or abandoned nonradioactive substances including, but not limited to, certain pesticides, or any residues or containers of those substances which are disposed of in such a quantity or concentration that would pose a substantial present or potential hazard to human health, wildlife, or the environment because those wastes or constituents or combinations of those wastes:

(a) Have short-lived, toxic properties that may cause death, injury, or illness or have mutagenic, teratogenic, or carcinogenic properties; or

(b) Are corrosive, explosive, flammable, or may generate pressure through decomposition or other means.

Dangerous wastes specifically includes those wastes designated as extremely hazardous by rules adopted under chapter 70.105 RCW.

(3) "Department" means the department of ecology.

(4) "Director" means the director of the department of ecology or the director's designee.

(5) "EPA/state dangerous waste identification number" means the number assigned by the EPA (Environmental Protection Agency) or by the department of ecology to each generator and/or transporter and each treatment, storage, and/or disposal facility.

(6) "Extremely hazardous waste" means any dangerous waste which, if disposed of at a disposal site in quantities that would present an extreme hazard to man or the environment:

(a) Will persist in a hazardous form for several years at a disposal site and which, in its persistent form:

(i) Presents a significant environmental hazard and may be concentrated by living organisms through a food chain or may affect the genetic make-up of man or wildlife; and

(ii) Is highly toxic to man and wildlife.

Extremely hazardous waste specifically includes those wastes designated as extremely hazardous by rules adopted under chapter 70.105 RCW.

(7) "Facility" means any geographical area that has been assigned an EPA/state dangerous waste identification number. In the case of a hazardous substance user not having an EPA/state dangerous waste identification number, facility means all buildings, equipment, structures, and other stationary items located on a single site or on contiguous or adjacent sites and owned or operated by the same person.

(8) "Fee" means the annual hazardous waste fees imposed under RCW 70.95E.020 and 70.95E.030.

(9) "Generate" means any act or process that produces hazardous waste or which first causes a hazardous waste to become subject to regulation.

(10) "Hazardous substance" means:

(a) Any hazardous substance listed as a hazardous substance as of the effective date of this section in accordance with Section 313 of Title III of the Superfund Amendments and Reauthorization Act and any further updates; and

(b) All ozone depleting compounds as defined by the Montreal Protocol of October 1987 and any further updates of the Montreal Protocol.

(11) "Hazardous substance use reduction" means the reduction, avoidance, or elimination of the use, toxicity, or production of hazardous substances without creating substantial new risks to human health or the environment. "Hazardous substance use reduction" includes proportionate changes in the usage of hazardous substances or the hazardous substances changes that are a result of production changes or other business changes.

(12) "Hazardous substance user" means any facility required to report under Section 313 of Title III of the Superfund Amendments and Reauthorization Act, except for those facilities which only distribute or use fertilizers or pesticides intended for commercial agricultural applications.

Note: This definition refers to those SARA Title III, Section 313 reporters who must prepare a plan, whereas the definition of hazardous substance refers to the substances that must be addressed in the plan.

(13) "Hazardous waste" includes all dangerous and extremely hazardous wastes, but:

(a) Does not include radioactive wastes or a substance composed of both radioactive and hazardous components; and

(b) Does not include any hazardous waste generated as a result of a remedial action under state or federal law.

(14) "Hazardous waste generator" or "generator" means any person generating hazardous waste that is subject to regulation by the department.

(15) "Hazardous waste reduction" means all in-facility practices that reduce, avoid, or eliminate the generation of hazardous waste or the toxicity of hazardous waste, before the hazardous waste is generated, without creating substantial new risks to human health or the environment.

(16) "Interrelated facilities" means multiple facilities owned or operated by the same person.

(17) "Office" means the hazardous waste and toxic reduction program.

(18) "Plan" means the plan provided for in RCW 70.95C.200.

(19) "Person" means an individual, trust, firm, joint stock company, partnership, association, state, public or private or municipal corporation, commission, political subdivision of a state, interstate body, the federal government, including any agency or officer thereof, and any Indian tribe or authorized tribal government.

(20) "Process" means one or a number of steps that produce an end product or service, or a component to be incorporated into an end product or service.

(21) "Product" means any hazardous substance or mixture containing hazardous substances that is used by a facility in a production or service process. Metals or metal alloys used by the facility are not considered "products" if they do not become incorporated into the hazardous waste streams and have no known pathway for the release of metals to the environment, either at the facility or after their use at the facility, such as from ultimate disposal by the consumer. Facilities will have to decide whether to group similar products (for example with different brand names) and list them as a single product. While some flexibility is left to the facility, products must be identified as a single product if they

have a similar chemical composition and may be used interchangeably by the facility.

Note: The term "product" as defined here and used throughout this chapter is not to be confused with the term "end product," which specifically refers to the "output" of a production process.

(22) "Recycled for beneficial use" means the use of hazardous waste, either before or after reclamation, as a substitute for a commercial product or raw material, but does not include:

- Use constituting disposal;
- Incineration; or
- Use as a fuel.

(23) "Recycling" means reusing waste materials and extracting valuable materials from a waste stream. Recycling does not include burning for energy recovery.

Note: While burning for energy recovery may be preferable to disposal, burning for energy recovery does not count as recycling for the purpose of chapter 70.95C RCW.

(24) "Remedial action wastes" means hazardous wastes that result from the cleanup of sites under state or federal hazardous waste laws.

(25) "Shifting of risks" means changing the character, location, or receptor of a toxic material without achieving a substantial reduction in the overall risk to health and safety or the environment.

(26) "Substantially similar processes" means processes that are essentially interchangeable, inasmuch as they use similar equipment and materials and produce similar products or services and generate similar wastes.

(27) "Treatment" means the physical, chemical, or biological processing of waste to render it completely innocuous, produce a recyclable by-product, reduce toxicity, or substantially reduce the volume of material that requires disposal as described in the priorities established in RCW 70.105.150. Treatment does not include incineration.

(28) "Used oil" means:

(a) Lubricating fluids that have been removed from an engine crankcase, transmission, gearbox, hydraulic device, or differential of an automobile, bus, truck, vessel, plane, heavy equipment, or machinery powered by an internal combustion engine;

(b) Any oil that has been refined from crude oil, used, and as a result of use, has been contaminated with physical or chemical impurities; and

(c) Any oil that has been refined from crude oil and, as a consequence of extended storage, spillage, or contamination, is no longer useful to the original purchaser. "Used oil" does not include used oil to which hazardous wastes have been added.

[Statutory Authority: Chapter 70.95C RCW. WSR 00-15-020 (Order 00-08), § 173-307-020, filed 7/11/00, effective 8/11/00; WSR 91-20-131 (Order 91-35), § 173-307-020, filed 10/1/91, effective 11/1/91; WSR 91-08-041 (Order 90-57), § 173-307-020, filed 4/1/91, effective 5/2/91.]

WAC 173-307-030 Plan requirements. This section establishes the specific elements required to be included in a plan. The purpose of a plan is to require serious consideration of ways in which processes and procedures may be modified to reduce dependence upon hazardous substances and/or the

generation of hazardous wastes. All plans must consider opportunities based on the following priorities: Hazardous substance use reduction and hazardous waste reduction, recycling, and treatment. The plans shall consist of the following parts:

(1) Part one. Part one shall include:

(a) A written policy expressing management and corporate support for the plan and a commitment to implement planned activities and achieve established goals.

(b) The plan scope and objectives.

(c) A description of the facility type, a description of products made and/or services provided, and a statement or listing of the current levels of production or service activity in units of measure appropriate to the industry or activity;

(d) A general overview of the processes used in production or service activities (a schematic drawing may be included);

(e) A statement providing, for the last calendar year, the total pounds of extremely hazardous waste and total pounds of dangerous waste reported on Form 4, Dangerous Waste Annual Report, and, if applicable, the total pounds of toxic releases reported on Form R under SARA Title III, Section 313; and

(f) A description of current reduction, recycling, and treatment activities and documentation of hazardous substance use reduction and hazardous waste reduction efforts that were completed before the first plan due date specified in WAC 173-307-050. Clearly separate the explanations of reduction activities from recycling and other management activities.

(2) Part two. Part two shall include an identification of hazardous substances used and hazardous wastes generated by the facility; a description of the facility processes; an identification of reduction, recycling, and treatment opportunities; an evaluation of those opportunities; a selection of proposed options; a policy to prevent shifting of risks; performance goals; and an implementation schedule. Specifically, Part two shall include:

(a) An identification of products containing hazardous substances used and hazardous wastes generated. This must be based on actual usage and generation during the most recent calendar year for which records are available. This task can be accomplished by choosing one of two approaches. The approaches are identified as the "pounds approach" and the "percentage approach." Look at the following descriptions and requirements of each of these and determine which one you wish to use.

(i) "Pounds approach."

This approach requires you to identify the types and amounts, in either weight or volume, of hazardous waste generated and products containing hazardous substances used up to these threshold levels:

(A) All dangerous waste streams five hundred pounds or greater, any smaller dangerous waste streams that individually represent ten percent or more of the total annual hazardous wastes, and all extremely hazardous waste streams subject to regulation by the department. If this combination equals less than ninety percent of the total hazardous wastes generated, then additional dangerous wastes generated at the facility must be included until ninety percent of the total is reached; and

(B) Each product used that contains a total of fifty percent or more of any combination of hazardous substances if one thousand pounds or more was used; each product used that contains a total of between twenty-five percent and forty-nine percent of hazardous substances if four thousand pounds or more was used; and each product used that contains a total of between ten and twenty-four percent of hazardous substances if ten thousand pounds or more was used. Any product that contains less than ten percent of any hazardous substances is not required to be included in the list regardless of the amount of the product used.

(C) Office products and products that are used at the facility for nonprocess routine janitorial or grounds maintenance related activities may be excluded from this list.

(D) Hazardous substances used and hazardous wastes generated in laboratory research need not be listed. Note: See (2)(k) of this subsection for discussion on this issue.

(ii) "Percentage approach."

This approach requires you to identify the types and amounts, in either weight or volume, of hazardous waste generated and products containing hazardous substances used up to these threshold levels;

(A) All extremely hazardous waste and enough additional dangerous waste to reach ninety percent of all the hazardous waste generated; and

(B) Ninety percent of all the products used that contain hazardous substances. The person making this list should attempt to include those products which contain the highest concentrations of hazardous substances and the most toxic hazardous substances.

(C) Office products and products that are used at the facility for nonprocess routine janitorial or grounds maintenance related activities may be excluded from this list.

(D) Hazardous substances used and hazardous wastes generated in laboratory research are not required to be listed. Note: See (2)(k) of this subsection for discussion on this issue.

(iii) Determinations of whether these quantities are met or exceeded for either approach must be based on the best available information. This information may be included or referenced in the plan. Available information may include any or all of the following as necessary to determine quantities of hazardous substances contained in products: Information available from material safety data sheets, information furnished upon request from manufacturers or suppliers of hazardous substances or products containing hazardous substances, information obtained from the department, and information otherwise known by the facility owner or operator.

An explanation of the procedures used to determine that the thresholds were met or exceeded must be included in this section of the plan.

(iv) The above thresholds must only be used for plans required to be completed before September 2, 1996. Plans or plan updates completed from that date on shall identify the types and amounts, in either weight or volume, of hazardous waste generated and hazardous substances used up to the following threshold levels;

(A) The "pounds approach" may only be used for identifying hazardous waste after September 2, 1996. This approach may not be used for products containing hazardous substances. The thresholds for hazardous waste are:

All dangerous waste streams five hundred pounds or greater, any smaller dangerous waste streams that individually represent ten percent or more of the total annual hazardous wastes, and all extremely hazardous waste streams subject to regulation by the department. If this combination equals less than ninety-five percent of the total hazardous wastes generated, then additional dangerous wastes generated at the facility must be included until ninety-five percent of the total is reached.

(B) The "percentage approach" remains an optional approach for hazardous waste, but it is the only approach that may be used for products. The thresholds for this approach are:

All extremely hazardous waste and enough additional dangerous waste to reach ninety-five percent of all the hazardous waste generated; and

Ninety-five percent of all the products used that contain hazardous substances.

(C) The exemptions in (ii)(C) and (D) of this subsection remain in effect.

(b) A detailed description of each process in the facility that generates hazardous waste or uses products containing hazardous substances as identified in the chosen approach in (a) of this subsection. This description may include a schematic drawing.

(c) For the hazardous waste and products containing hazardous substances identified in (a) of this subsection within each of the processes identified in (b) of this subsection, an identification, based on thorough research, of all reasonable opportunities for further hazardous substance use reduction, hazardous waste reduction, recycling, and treatment. Thorough research shall include, at a minimum, a review of literature commonly available to that industry or trade. The full range of potentially feasible opportunities must be identified without regard to possible impediments to implementing the opportunities. In identifying opportunities, consideration must be given to alternative approaches which, in the judgment of the facility management, satisfy the same demand for end products or services but use substantially less hazardous substances or result in the generation of substantially less hazardous waste;

(d) An evaluation of the identified opportunities. Opportunities must be grouped by priority and evaluated according to these priorities. The priorities are, in descending order: Hazardous substance use and hazardous waste reduction; recycling; and, treatment. Opportunities of a lower priority must be given consideration only after a determination is made that the higher priority opportunities are inappropriate due to impediments to their implementation. Impediments that are considered acceptable include, but are not limited to:

(i) Adverse impacts on product quality, legal or contractual obligations;

(ii) Economic and technical practicality;

(iii) Safety considerations; and

(iv) The creation of substantial new risks to human health or the environment.

Except with respect to the use and distribution of fertilizers or pesticides intended for commercial agricultural applications, the evaluation of hazardous waste reduction opportunities must include an evaluation of hazardous substance use reduction opportunities for those hazardous substances which

subsequently result in hazardous waste streams as well as an evaluation of other opportunities for the reduction of hazardous waste.

The evaluation required under this subsection shall include:

- (A) An economic analysis;
- (B) A technical evaluation;
- (C) An identification of whether, and if so how, the identified opportunity would result in a shifting of risk from one part of a process, environmental medium, or product to another; and
- (D) An identification of all impediments to implementing the opportunities.

The economic analysis shall seek to identify the total costs associated with the current hazardous substance use and hazardous waste generation, management and disposal, compared with comparable costs associated with implementing the alternatives.

Evaluation of each opportunity may be considered complete when enough information is available to select or reject the opportunity for implementation. For opportunities rejected, the reason or reasons for rejecting them must be stated.

(e) A selection of opportunities to be implemented in accordance with the evaluation conducted in (d) of this subsection. For each selected opportunity, the process it affects must be identified, and estimates of the amount, by weight, of the reduction of hazardous substances or products containing hazardous substances and hazardous waste reduction that would be achieved through implementation must be stated, and the amount of hazardous wastes recycled or treated as a result of implementation must be included;

(f) A written policy stating that in implementing the selected options whenever technically and economically practicable, risks will not be shifted from one part of a process, environmental medium, or product to another;

(g) Specific performance goals in each of the following categories, expressed in numeric terms:

- (i) Hazardous substances or products containing hazardous substances to be reduced or eliminated from use;
- (ii) Hazardous wastes to be reduced or eliminated through hazardous waste reduction techniques;
- (iii) Materials or hazardous wastes to be recycled; and
- (iv) Hazardous wastes to be treated.

If the establishment of numeric performance goals is not practicable, the performance goals shall include a clearly stated list of objectives designed to lead to the establishment of numeric goals as soon as is practicable. Goals must be set for a five-year period from the first reporting date (see (h) of this subsection regarding implementation activities that will take longer than five years);

(h) A five-year implementation schedule, which shall display planned implementation activities for each of the five calendar years following completion of the plan. Information to be provided shall include, but is not limited to, the opportunities (or phases of opportunities) being implemented and related milestones. Where complete implementation of a selected opportunity will take longer than five years, the schedule shall contain relevant milestones within a five-year period and an estimated date of completion. The schedule

may be in table form and organized by opportunities within processes, if desired.

(i) A description of how those hazardous wastes that are not recycled or treated and the residues from recycling and treatment processes are managed may be included in the plan.

(j) Documentation of any research conducted in fulfillment of any of the above subdivisions of this subsection must be available to the department upon request.

(k) For research laboratories, the plan may include, in lieu of all the detailed requirements of this subsection, a description of policies and procedures to be followed by laboratory personnel regarding the use of hazardous substances and the generation of hazardous wastes through laboratory research. These policies and procedures must be consistent with the waste reduction priorities as defined in this chapter.

(3) Part three. Part three shall provide a financial description of the plan, which shall identify costs and benefits realized from implementing selected opportunities to the extent reasonably possible. Part three shall also include a description of accounting systems that will be used to identify hazardous substance use and hazardous waste management costs. Liability, compliance, and oversight costs must be components of these accounting systems.

(4) Part four. Part four of the plan shall include a description of personnel training and employee involvement programs. Each facility required to write a plan is encouraged to advise its employees of the planning process and solicit comments or suggestions from its employees on hazardous substance use and waste reduction opportunities.

[Statutory Authority: Chapter 70.95C RCW. WSR 00-15-020 (Order 00-08), § 173-307-030, filed 7/11/00, effective 8/11/00; WSR 91-20-131 (Order 91-35), § 173-307-030, filed 10/1/91, effective 11/1/91; WSR 91-08-041 (Order 90-57), § 173-307-030, filed 4/1/91, effective 5/2/91.]

WAC 173-307-040 Executive summary. Upon completion of a plan, the owner, chief executive officer, or other person with the authority to commit management to the plan, such as a facility manager, shall sign and submit an executive summary of the plan to the department. This summary must be available from the department for public inspection upon request. The facility may choose to submit the complete plan to the department rather than prepare an executive summary. In that event, the complete plan must also be available for public inspection.

Executive summaries shall include the following information from the plan:

(1) A written policy expressing management and corporate support for the plan and a commitment to implement planned activities and achieve established goals;

(2) The plan scope and objectives;

(3) A description of the facility type and a summary of product made and/or services provided;

(4) A list of the type and amount of each hazardous waste and products containing hazardous substances as identified in WAC 173-307-030 (2)(a);

(5) A brief description of each process in the facility that generates hazardous waste or uses products containing hazardous substances as listed in subdivision (d);

(6) A description of current reduction, recycling, and treatment activities, and documentation of hazardous substance use reduction and hazardous waste reduction activities

completed before the first reporting date specified in WAC 173-307-050;

(7) A summary of all further hazardous substance use reduction, hazardous waste reduction, recycling, and treatment opportunities identified. Opportunities must be identified first for hazardous substance use reduction and hazardous waste reduction, secondly for recycling, and lastly for treatment. A statement of the reason or reasons for rejecting any opportunity from further consideration and a summary of all identified impediments to implementing opportunities must be included;

(8) A description of the opportunities selected to be implemented, process or processes affected, and estimated reductions to be achieved;

(9) Specific performance goals, expressed in numeric terms for each of the categories listed below (assumptions on changing production or service activity levels during the period covered by the plan must be described):

(a) Hazardous substances to be reduced or eliminated from use;

(b) Hazardous wastes to be reduced or eliminated through waste reduction techniques;

(c) Materials or hazardous wastes to be recycled; and

(d) Hazardous wastes to be treated.

If the establishment of numeric performance goals is not practicable, the performance goals shall include a clearly stated list of objectives designed to lead to the establishment of numeric goals as soon as is practicable. Goals must be set for a five-year period from the first reporting date;

(10) The five-year implementation schedule identified in WAC 173-307-030 (2)(h), which shall display planned implementation activities for each of the five calendar years following completion of the plan;

(11) A summary of costs and benefits realized from implementing selected opportunities;

(12) For research labs, the executive summary may include, in lieu of all the detailed requirements of this section, a description of policies and procedures to be followed by laboratory personnel regarding the use of hazardous substances and the generation of hazardous waste through laboratory research. These policies and procedures must be consistent with the waste reduction priorities as defined in this chapter.

[Statutory Authority: Chapter 70.95C RCW. WSR 00-15-020 (Order 00-08), § 173-307-040, filed 7/11/00, effective 8/11/00; WSR 91-20-131 (Order 91-35), § 173-307-040, filed 10/1/91, effective 11/1/91; WSR 91-08-041 (Order 90-57), § 173-307-040, filed 4/1/91, effective 5/2/91.]

WAC 173-307-050 Due dates. Plans must be completed and executive summaries must be submitted in accordance with the following schedule:

(1) Hazardous waste generators who generated more than fifty thousand pounds of hazardous waste in calendar year 1991 and hazardous substance users who were required to report in 1991, by September 1, 1992;

(2) Hazardous waste generators who generated between seven thousand and fifty thousand pounds of hazardous waste in calendar year 1992 and hazardous substance users who were required to report for the first time in 1992, by September 1, 1993;

[Ch. 173-307 WAC p. 6]

(3) Hazardous waste generators who generated between two thousand six hundred forty and seven thousand pounds of hazardous waste in 1993 and hazardous substance users who were required to report for the first time in 1993, by September 1, 1994;

(4) Hazardous waste generators who have not been required to complete a plan on or before September 1, 1994, shall complete a plan by September 1 of the year following the first year that they generate more than two thousand six hundred forty pounds of hazardous waste; and

(5) Hazardous substance users who have not been required to complete a plan on or before September 1, 1994, shall complete a plan by September 1 of the year following the first year that they are required to report under Section 313 of Title III of the Superfund Amendments and Reauthorization Act.

[Statutory Authority: Chapter 70.95C RCW. WSR 00-15-020 (Order 00-08), § 173-307-050, filed 7/11/00, effective 8/11/00; WSR 91-08-041 (Order 90-57), § 173-307-050, filed 4/1/91, effective 5/2/91.]

WAC 173-307-060 Plan availability. Plans developed under chapter 173-307 WAC must be kept at the facility and made available for review to authorized representatives of the department. The plan is not a public record under the public disclosure laws of the state of Washington contained in chapter 42.17 RCW, unless submitted in lieu of an executive summary as provided for in WAC 173-307-040.

[Statutory Authority: Chapter 70.95C RCW. WSR 00-15-020 (Order 00-08), § 173-307-060, filed 7/11/00, effective 8/11/00; WSR 91-20-131 (Order 91-35), § 173-307-060, filed 10/1/91, effective 11/1/91; WSR 91-08-041 (Order 90-57), § 173-307-060, filed 4/1/91, effective 5/2/91.]

WAC 173-307-070 Plan amendments and updates.

(1) A plan must be kept reasonably current and may be amended in response to changes in facility operations, substances used, or wastes generated.

(a) Users or generators shall notify the department of an amended plan and submit amendments to their plan or executive summary, whichever was originally submitted, including an identification of which sections have been amended. The implementation schedule of the amended plan and/or new executive summary must be within the original five-year timeline initiated by completion of the original plan.

(b) Even if a plan is amended, a five-year plan update will still be required five years from completion of the first plan, or from the last five-year update.

(2) Every five years, each plan must be updated, and the plan or a new executive summary must be submitted to the department. A plan update shall conform to the requirements for preparing reduction plans as specified in this chapter.

[Statutory Authority: Chapter 70.95C RCW. WSR 00-15-020 (Order 00-08), § 173-307-070, filed 7/11/00, effective 8/11/00; WSR 91-20-131 (Order 91-35), § 173-307-070, filed 10/1/91, effective 11/1/91; WSR 91-08-041 (Order 90-57), § 173-307-070, filed 4/1/91, effective 5/2/91.]

WAC 173-307-080 Progress reports. Progress reports must be submitted to the department annually on September 1 after the due date of the plan. The purpose of the progress report is to provide information on quantities of hazardous waste and hazardous substances or products containing hazardous substances reduced in the prior twelve-month period.

(7/11/00)

(1) Progress reports shall include a discussion of:

(a) Performance goals. If numeric performance goals were listed in the plan, progress toward achieving these goals must be discussed. If numeric performance goals were not listed in the plan, progress made toward establishing numeric goals and progress made toward achieving the goals as stated in the plan must be discussed. This discussion shall include:

(i) A description of reduction, recycling, and treatment opportunities that were implemented.

(ii) A description of the process or processes impacted by each opportunity.

(iii) A description of the quantities, by weight, of hazardous substances or products containing hazardous substances reduced and hazardous waste reduced by each option. Estimation techniques, and any assumptions used must be described. Quantities reduced must be displayed in relation to changing production levels. The description shall also include a statement of the level of production or service activity in relation to the level of production or service activity stated in the plan at the time the plan was prepared.

Note: Factors not resulting in actual reductions, such as new estimating techniques, delistings of substances or hazardous wastes, and reclassifications of waste management techniques cannot be counted or claimed as reductions.

(iv) If measurement or estimation techniques are changed from the prior reports in such a way that reductions are not additive for the five-year planning period, a methodology for converting prior reported reductions must be described and recalculations must be provided.

(b) Problems encountered in the implementation process. Problems must be clearly identified and must include a discussion of steps taken or proposed to resolve problems. An update on problems reported in previous progress reports must be included.

(2) Upon the request of two or more users or generators belonging to similar industrial classifications, the department may aggregate data contained in their annual progress reports for the purpose of developing a public record.

[Statutory Authority: Chapter 70.95C RCW. WSR 00-15-020 (Order 00-08), § 173-307-080, filed 7/11/00, effective 8/11/00; WSR 91-20-131 (Order 91-35), § 173-307-080, filed 10/1/91, effective 11/1/91; WSR 91-08-041 (Order 90-57), § 173-307-080, filed 4/1/91, effective 5/2/91.]

WAC 173-307-090 Review process. A user or generator required to prepare a plan shall permit the director to review the plan to determine its adequacy.

(1) The department may review a plan, executive summary, or an annual progress report to determine whether the document is adequate and shall base its determination solely on whether the document is complete and prepared in accordance with the provisions of this chapter and the requirements of chapter 70.95C RCW.

(2) If a hazardous substance user or hazardous waste generator fails to complete an adequate plan, executive summary, or annual progress report, the department shall notify the user or generator of the inadequacy, identifying specific deficiencies. For the purposes of this section, a deficiency may include failure to develop a plan, failure to submit an executive summary, or failure to submit an annual progress report. The department shall specify a reasonable time frame,

(7/11/00)

of not less than ninety days, within which the user or generator shall complete a modified plan, executive summary, or annual progress report addressing the specified deficiencies.

(3) If the department determines that a modified plan, executive summary, or annual progress report is inadequate, the department may, within its discretion, either require further modification or enter an order under WAC 173-307-100.

[Statutory Authority: Chapter 70.95C RCW. WSR 00-15-020 (Order 00-08), § 173-307-090, filed 7/11/00, effective 8/11/00; WSR 91-08-041 (Order 90-57), § 173-307-090, filed 4/1/91, effective 5/2/91.]

WAC 173-307-100 Penalties. (1) If, after having received a list of specified deficiencies from the department, a hazardous substance user or hazardous waste generator required to prepare a plan fails to complete modification of a plan, executive summary, or annual progress report within the time period specified by the department, the department may enter an order under chapter 34.05 RCW finding the user or generator not in compliance with the requirements of RCW 70.95C.200. When the order is final, the department shall notify the department of revenue to charge a penalty fee. The penalty fee must be the greater of one thousand dollars or three times the amount of the user's or generator's previous year's fee, in addition to the current year's fee. If no fee was assessed the previous year, the penalty must be the greater of one thousand dollars or three times the amount of the current year's fee. The penalty assessed under this subsection must be collected each year after the year for which the penalty was assessed until an adequate plan, executive summary, or annual progress report is completed.

(2) If a hazardous substance user or hazardous waste generator required to prepare a plan fails to complete an adequate plan, executive summary, or annual progress report after the department has levied against the user or generator the penalty provided for in subsection (1) of this section, the user or generator must be required to pay a surcharge to the department whenever the user or generator disposes of a hazardous waste at any hazardous waste incinerator or hazardous waste landfill facility located in Washington state, until the required document is completed and determined to be adequate by the department. The surcharge must be equal to three times the fee charged for disposal. The department shall furnish the incinerator and landfill facilities in Washington state with a list of Environmental Protection Agency/state identification numbers of the hazardous waste generators that are not in compliance with the requirements of RCW 70.95C.200.

[Statutory Authority: Chapter 70.95C RCW. WSR 00-15-020 (Order 00-08), § 173-307-100, filed 7/11/00, effective 8/11/00; WSR 91-08-041 (Order 90-57), § 173-307-100, filed 4/1/91, effective 5/2/91.]

WAC 173-307-110 Appeals. A user or generator may appeal a department order or a surcharge under RCW 70.95C.220 to the pollution control hearings board under chapter 43.21B RCW.

[Statutory Authority: Chapter 70.95C RCW. WSR 00-15-020 (Order 00-08), § 173-307-110, filed 7/11/00, effective 8/11/00; WSR 91-08-041 (Order 90-57), § 173-307-110, filed 4/1/91, effective 5/2/91.]

WAC 173-307-120 Exemptions. A person required to prepare a plan because of the quantity of hazardous waste

generated may petition the director to be excused from this requirement. The person must demonstrate to the satisfaction of the director that the quantity of hazardous waste generated was due to unique circumstances not likely to be repeated and that the person is unlikely to generate sufficient hazardous waste to require a plan in the next five years.

[Statutory Authority: Chapter 70.95C RCW. WSR 91-08-041 (Order 90-57), § 173-307-120, filed 4/1/91, effective 5/2/91.]

WAC 173-307-130 Public disclosure. (1) The department shall make available for public inspection any executive summary or annual progress report submitted to the department. Any hazardous substance user or hazardous waste generator required to prepare an executive summary or annual progress report, who believes that disclosure of any information contained in the executive summary or annual progress report may adversely affect the competitive position of the user or generator, may request the department under RCW 43.21A.160 to delete from the public record those portions of the executive summary or annual progress report that may affect the user's or generator's competitive position. The department may not disclose any information contained in an executive summary or annual progress report pending a determination of whether the department will delete any information contained in the report from the public record. This determination will be made within sixty days following a request for public inspection.

(2) Any ten persons residing within ten miles of a hazardous substance user or hazardous waste generator required to prepare a plan may file with the department a petition requesting the department to examine a plan to determine its adequacy. The department shall report its determination of adequacy to the petitioners and to the user or generator within a reasonable time. The department may deny a petition if the department has, within the previous year, determined the plan of the user or generator named in the petition to be adequate.

[Statutory Authority: Chapter 70.95C RCW. WSR 00-15-020 (Order 00-08), § 173-307-130, filed 7/11/00, effective 8/11/00; WSR 91-08-041 (Order 90-57), § 173-307-130, filed 4/1/91, effective 5/2/91.]

WAC 173-307-140 Records. The department shall maintain a record of each plan, executive summary, or annual progress report it reviews, and a list of all plans, executive summaries, or annual progress reports the department has determined to be inadequate, including descriptions of corrective actions taken. This information must be made available to the public.

[Statutory Authority: Chapter 70.95C RCW. WSR 00-15-020 (Order 00-08), § 173-307-140, filed 7/11/00, effective 8/11/00; WSR 91-08-041 (Order 90-57), § 173-307-140, filed 4/1/91, effective 5/2/91.]