

WAC 173-303-525 Special requirements for recyclable material utilized for precious metal recovery. (1) Applicability and requirements. (Also, see WAC 173-303-120(3).)

(a) This section applies to recyclable materials that are reclaimed to recover economically significant amounts of gold, silver, platinum, palladium, iridium, osmium, rhodium, ruthenium, or any combination of these.

(b) Persons who generate, transport, or store recyclable materials that are regulated under this section are subject to the following requirements:

(i) Notification requirements under WAC 173-303-060;

(ii) WAC 173-303-180 (for generators), 173-303-250 (for transporters), and 173-303-370 (for persons who store); and

(iii) For precious metals exported to or imported from other countries for recovery, 40 C.F.R. subpart H of part 262 (incorporated by reference at WAC 173-303-230(1)).

(c) Persons who store recycled materials that are regulated under this section must keep the following records to document that they are not accumulating these materials speculatively (as defined in WAC 173-303-016 (5)(d)(ii));

(i) Records showing the volume of these materials stored at the beginning of the calendar year;

(ii) The amount of these materials generated or received during the calendar year; and

(iii) The amount of materials remaining at the end of the calendar year.

(d) Recyclable materials that are regulated under this section that are accumulated speculatively (as defined in WAC 173-303-016 (5)(d)(ii)) are dangerous wastes and are subject to all applicable provisions of this chapter.

(2) Additional regulation of recyclable materials utilized for precious metal recovery on a case-by-case basis.

The department may decide on a case-by-case basis that persons accumulating or storing recyclable materials utilized for precious metal recovery should be regulated under WAC 173-303-120(4). The basis for this decision is that the materials are being accumulated or stored in a manner that does not protect human health and the environment because the materials or their toxic constituents have not been adequately contained, or because the materials being accumulated or stored together are incompatible. In making this decision, the department will consider the following factors:

(a) The types of materials accumulated or stored and the amounts accumulated or stored;

(b) The method of accumulation or storage;

(c) The length of time the materials have been accumulated or stored before being reclaimed;

(d) Whether any contaminants are being released into the environment, or are likely to be so released; and

(e) Other relevant factors.

The procedures for this decision are set forth in subsection (3) of this section.

(3) Procedures for case-by-case regulation of recyclable materials utilized for precious metal recovery.

The department will use the following procedures when determining whether to regulate recyclable materials utilized for precious metal recovery under the provisions of WAC 173-303-120(4), rather than under the provisions of subsection (1) of this section.

(a) If a generator is accumulating the waste, the department will issue a notice setting forth the factual basis for the decision and stating that the person must comply with the applicable requirements of WAC 173-303-170 and 173-303-190 through 173-303-230. The notice will become final within thirty days, unless the person served requests a public hearing to challenge the decision. Upon receiving such a request, the department will hold a public hearing. The department will provide notice of the hearing to the public and allow public participation at the hearing. The department will issue a final order after the hearing stating whether or not compliance with WAC 173-303-170 and 173-303-190 through 173-303-230 is required. The order becomes effective thirty days after service of the decision unless the department specifies a later date or unless review by the department is requested. The order may be appealed to the pollution control hearings board, in accordance with WAC 173-303-845, by any person who participated in the public hearing.

(b) If the person is accumulating the recyclable material as a storage facility, the notice will state that the person must obtain a permit in accordance with all applicable provisions of WAC 173-303-800 through 173-303-840. The owner or operator of the facility must apply for a permit within no less than sixty days and no more than six months of notice, as specified in the notice. If the owner or operator of the facility wishes to challenge the department's decision they may do so in their permit application, in a public hearing held on the draft permit, or in comments filed on the draft permit or on the notice of intent to deny the permit. The fact sheet accompanying the permit will specify the reasons for the department's determination. The question of whether the department's decision was proper will remain open for consideration during the public comment period discussed under WAC 173-303-840 (4) (d) and in any subsequent hearing.

[Statutory Authority: Chapters 70.105, 70.105D RCW and RCRA. WSR 19-04-038 (Order 16-03), § 173-303-525, filed 1/28/19, effective 4/28/19. Statutory Authority: Chapters 70.105, 70.105D, and 15.54 RCW and RCW 70.105.007. WSR 04-24-065 (Order 03-10), § 173-303-525, filed 11/30/04, effective 1/1/05. Statutory Authority: Chapters 70.105 and 70.105D RCW. WSR 03-07-049 (Order 02-03), § 173-303-525, filed 3/13/03, effective 4/13/03. Statutory Authority: Chapters 70.105 and 70.105D RCW, 40 C.F.R. Part 271.3 and RCRA § 3006 (42 U.S.C. 3251). WSR 91-07-005 (Order 90-42), § 173-303-525, filed 3/7/91, effective 4/7/91. Statutory Authority: Chapter 70.105 RCW. WSR 86-12-057 (Order DE-85-10), § 173-303-525, filed 6/3/86.]